(21,572.)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1910.

No. 182.

RAFAEL ENRIQUEZ ET AL., APPELLANTS,

vs.

FRANCISCO ENRIQUEZ AND CARMEN DE LA CAVADA DE ENRIQUEZ, HIS WIFE.

APPEAL FROM THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

INDEX.

	Original.	Print
Caption	1	1
Proceedings in court of first instance of the city of Manila	1	1
Complaint	2	1
Plaintiffs' documentary proof—Exhibit A	7	4
Statements as to summons	10	5
Appearance for defendants	11	6
Answer	11	6
Amended answer	15	8
Exhibit XXV—Decision in the case of the United States *vs.* Francisco Enriquez	19	10
Order transferring cause	29	16
Amended complaint	29	16
Statement as to *subpœna duces tecum*	34	19
Statement as to setting cause for argument	35	20
Second amended answer	35	20
Stipulation as to evidence	39	22
Reply to amended answer	40	22

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., MAY 4, 1911.

	Original.	Print
Plaintiffs' Exhibit A—Will of Antonio Enriquez y Sequera	41	23
No. 2—Statement of Justo San José, solicitor for Rafael Enriquez y Villanueva *et al.*, to the court of first instance of the district of Binondo, December 17, 1897	43	25
3—Testimony of Luis Quintos	63	35
4—Testimony of Pascual Reyes	74	42
5—Testimony of Carmen Gonzales de Badolato	83	47
6—Testimony of Agueda Esteban	85	48
7—Testimony of Rufino Bernaldo	99	56
8—Testimony of Antonio Enriquez	107	60
9—Testimony of Trinidad Enriquez	126	71
10—Letter of Antonio Cano to court of first instance of district of Binondo, December 31, 1897	138	78
11—Certificate of priest in charge of the parish church of San Geronimo el Real of the city of Madrid	138	78
12—Testimony of Tomas Rodriguez	140	79
13—Testimony of Bonifacio Briones	143	80
14—Testimony of Carmen de la Cavada de Enriquez	145	82
15—Testimony of Rafael Enriquez	155	88
16—Certificate of registry of baptism of Maria del Carmen Maxima Enriquez	191	106
17—Certificate of registry of baptism of Cayetano Saturnino Enriquez	192	107
18—Certificate of registry of baptism of Trinidad Francisco Enriquez y Sequera	193	107
Plaintiffs' Exhibit AB—Certificate of marriage of Antonio Enriquez y Sequera and Cirica de Villanueva y Sierra	194	108
Document No. 883	195	108
Document No. 24	208	116
Letter of Rafael to Father, February 9, 1883	214	119
Quico, February 9, 1883	215	120
May 14, 1883	218	122
June 1, 1883	220	122
June 28, 1883	221	123
Antonio to Quico, September 30, 1883	224	125
Tula to Quico, May 31, 1884	225	125
Tula to Quico, September 20, 1883	226	126
Carmen to Quico, January 31, 1884	228	127
Antonio to Quico, November 30, 1883	230	128
Testimony of Venancio Ruiz	233	129
Rafael Enriquez	240	133
Francisco Enriquez	243	135

	Original.	Print
Exhibit D—Proceedings instituted at the request of Antonio Enriquez y Sequera in regard to the amendment of the certificate of baptism of his daughter, Maria Rosaria Sofia	280	155
Decision	287	158
Motion for new trial by defendants	297	163
Exception to decision by plaintiffs	299	164
Exception by defendants to denial of new trial	299	164
Testimony of Calixto Villafranca	300	164
Allowance of bill of exceptions	308	168
Assignment of errors	308	169
Decision	309	170
Motion for new trial	313	172
Judgment	314	172
Petition for appeal and allowance (copy)	316	173
Assignment of errors	317	174
Affidavit of value	319	175
Bond	320	175
Citation and service (copy)	321	176
Petition for enlargement of time	322	177
Order enlarging time to file record	323	177
Clerk's certificate	324	178
Petition for appeal and allowance (original)	325	178
Citation and service (original)	326	179

1 R. G. No. 3474.

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

RAFAEL ENRIQUEZ, in His Own Right and as the Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, Gertrudis Enriquez, Antonio Gascon, Minor, Plaintiffs and Appellants,

vs.

FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, Defendants and Appellees.

Be it remembered that the following proceedings were had in the Court of First Instance of the City of Manila and in the Supreme Court of the Philippine Islands in the above entitled cause:

On the second day of June, 1902, a complaint was filed in the Court of First Instance of the City of Manila, which said complaint is in the words and figures following, to-wit:

2 UNITED STATES OF AMERICA:

In the Court of First Instance of the City of Manila.

RAFAEL ENRIQUEZ, in His Own Right and as the Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, Gertrudis Enriquez, Antonio Gascon, Minor, Plaintiffs,

vs.

FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, Defendants.

The plaintiffs, complaining, allege:

1. That Rafael Enriquez is at present, and was during the last year, the duly appointed, qualified and acting administrator of the estate of Antonio Enriquez, deceased;

2. That on the 27th of March, 1883, prior thereto, and until the time of his death, as hereinafter alleged, Antonio Enriquez y Sequera suffered from a physical and mental infirmity of such a nature as to deprive him, and which did deprive him, continuously, of his reason, and to render him unable, continuously, to conduct and administer his ordinary affairs;

3. That on or about the 27th of March, 1883, the defendants, and each of them, with the intention of defrauding and deceiving the said Antonio Enriquez y Sequera and his heirs, fabricated and

3 falsified, and caused to be fabricated and falsified, an instrument a literal copy of which is hereto attached, marked

"Plaintiffs' Documentary Proof 'A' ", in which said document it is made to appear that the said Antonio Enriquez y Sequera executed a deed of sale in favor of the defendant Carmen de la Cavada, it being further stated therein that the said Antonio Enriquez thereby sold and transferred to the said defendant, for the sum of eight thousand pesos, a piece of real estate in the city of Manila, Philippine Islands, described as follows:

A house of rough stone and mortar, and the lot upon which it stands, in Calle David, District of Binondo, numbered nine, which is at present bounded on the right by the house of rough stone and mortar of Josefa Sembrano; on the left by another small house of rough stone and mortar, belonging to José Saragosa, and according to the old title papers the said property is bounded in front by the road leading to the landing-place on the river Sibacon, on the right by the house of rough stone and mortar of the deceased Alejandro de los Reyes, on the left by the house of Eustaquio de Ocampo, and on the back by the property of the deceased Father Lucio Victoria; which said property he bought from Juan Veloso Evangelista, the latter representing Gabino Veloso del Rosario, on the 1st day of July, 1861, as per a public instrument numbered one hundred and thirty-seven, executed before the notary public Mariana Soló;

4. That the said Antonio Enriquez y Sequera neither executed nor authorized the execution of the said instrument, and that the said instrument has been at all times, and is at present, a fictitious, false, fraudulent and null and void instrument;

5. That upon the death of the said Antonio Enriquez y Sequera, deceased, which occurred on the 31st day of July, 1884, the
4 said defendant Francisco Enriquez became the executor and administrator of the estate of the said Antonio Enriquez y Sequera, deceased, and from that date continued to act as such executor and administrator until the latter part of 1900;

6. That on the 27th day of March, 1883, long prior to that date, and at the time of the alleged execution of the deed of sale, fictitious and fraudulent as alleged, the said Antonio Enriquez y Sequera, deceased, was the exclusive owner and was in possession and had a right to the possession of the said real estate and all parts thereof;

7. That on the above mentioned dates the property in question had a value of twenty thousand pesos, more or less, and that it is now worth the sum of forty thousand pesos, more or less;

8. That neither the defendant Carmen de la Cavada de Enriquez, nor the defendant Francisco Enriquez, or any other person, paid any remuneration or compensation to said Antonio Enriquez y Sequera, or to any other person for him, neither for the aforesaid sale nor for the above mentioned property;

9. That the said Antonio Enriquez y Sequera, on the 1st day of April, 1883, sailed for Europe and left the Philippine Islands, and remained absent therefrom until the time of his death;

10. That the defendant Carmen de la Cavada de Enriquez is now, and during all the time mentioned in this complaint was, the wife of the defendant Francisco Enriquez;

11. That the said Antonio Enriquez y Sequera, deceased, died in

or about the month of July, 1884, in the Kingdom of Spain, leaving a will by which he left the property which he had at the time of his death to his children, share and share alike;

12. That the defendant, Francisco Enriquez, is the sole surviving son of the said Antonio Enriquez y Sequera, deceased;

13. That the plaintiffs and the defendant Francisco Enriquez are the only surviving legitimate children and heirs of the said Antonio Enriquez y Sequera, deceased, with the exception of Carmen Enriquez, the surviving daughter of the said deceased, and who is now absent in the Kingdom of Spain, and the plaintiff Antonio Gascon, who is the only surviving son of Concepción Enriquez, one of the daughters of the said Antonio Enriquez, deceased, and who is now dead;

14. That ever since the said 27th day of March, 1883, the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, have been in the exclusive possession, and continue in possession, of the said property and every part thereof; that they have collected all the rent and earnings accruing from the said property, having appropriated the same to their own use;

15. That the rent and earnings of the said property for the years 1883 to 1890, were one hundred pesos per month; that the rent and earnings of the said property for the years 1890 to 1897 were one hundred and fifty pesos per month; that the rent and earnings of the said property for the years from 1897 to this date have been two hundred and fifty pesos per month:

Wherefore plaintiffs pray the court that judgment be entered against the defendants and each of them—

1. Setting aside and declaring null and void the alleged deed of sale above mentioned;

2. Declaring that the said property and every part thereof belongs to the estate of Antonio Enriquez y Sequera, deceased;

3. That it be adjudged and decreed that the defendants, and each of them, have no right, title or interest in or to the said property, or in or to any part thereof;

4. That the plaintiffs recover from the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez the value of the rent and earnings of the said property, at the rate of one hundred pesos per month for the years 1884 to 1890; at the rate of one hundred and fifty pesos per month for the years 1890 to 1897, and at the rate of two hundred and fifty pesos per month from the year 1897 to this date;

5. For such other and further relief as the court may deem equitable and just;

6. For the costs of this action.

(Signed) MONTAGNE & DOMINGUEZ.
Counsel for Plaintiffs.

Indorsement: United States of America. Manila, P. I. No. 883. Filed in this Office this second day of June, nineteen hundred and two. (Signed) J. McMicking. Clerk of the Court of First Instance of Manila, P. I.

7 PLAINTIFFS' DOCUMENTARY PROOF, EXHIBIT "A."

No. 182.

In the District of Binondo, Manila, this 27th day of March, 1883, I, Miguel Torres, Licentiate of Law and a public notary in and for this city, called at the premises numbered four, Calle David, said District of Binondo, together with the witnesses hereinafter mentioned, and having before me, Antonio Enriquez y Sequera, a Peninsular Spaniard, of age, property-owner of this city, and personaly known to me, to which I certify, and who having assured me to be, as in my judgment I think he is, in the full enjoyment of his mental faculties, with the necessary legal capacity to execute this instrument, nothing to the contrary to me appearing, said: That he is the absolute owner of a house of rough stone and mortar, and the lot upon which it stands, on Calle David, District of Binondo, numbered nine, which is at present bounded on the right by the house of rough stone and mortar, of Josefa Sembrano, on the left by a small house of rough stone and mortar, of José Saragosa; and according to the old title papers the said property is bounded on the front by the road leading to the landing-place on the river Sibacon, on the right by the house of rough stone and mortar, of the deceased Alejandro de los Reyes, on the left by the house of Eustaquio de Ocampo, and on the back by the property of the deceased Father Lucio Victoria; which said property he bought from Juan Veloso Evangelista, who represented Gabino Veloso del Rosario, on the 1st day of July, 1861, as appears from a public instrument, numbered one hundred and thirty-seven, executed before the notary public Don Mariano Soló, which said deed Mr. Enriquez is unable to exhibit, it being in the possession of the attorney in fact for the Sagrada Metra, to whom the said property was mortgaged for the sum of five thousand pesos, with interest at the rate of six per cent. per annum.

8 That with the exception of the aforesaid mortgage the property in question has no other lien or encumbrance, as he will readily prove, if necessary, with the certificate of the Municipal Board of the city;

That having heretofore agreed to sell the said property to Carmen de la Cavada, with the consent of her husband, Francisco Enriquez, for the sum of eight thousand pesos, he hereby sells and transfers absolutely the said property to Carmen de la Cavada de Enriquez, with all the uses, easements, rights and actions thereto belonging, for the said sum of eight thousand pesos, of which he hereby acknowledges to have heretofore received the sum of three thousand pesos in local currency, to his entire satisfaction, he hereby waiving the exception of the purchase-money not having been counted, also the two years which the laws of the kingdom allow him for bringing an action based thereupon, and as to the five thousand pesos, the balance of the purchase price, the vendee, with the consent of her husband, hereby binds herself to pay the said amount to the sagrada metra of this city, promising to pay the same to the attorney

in fact of the said sagrada metra whenever the said amount becomes due, together with interest thereon at the rate of six per cent. per annum from this date, which payment she hereby secures with the same property which is the subject of this instrument. The vendor, Antonio Enriquez, hereby executes to the said Carmen de la Cavada de Enriquez such acquittance and discharge as may be necessary for the sum of three thousand pesos heretofore received by him, transmitting to her at the same time the ownership and title of the said property, that she may take possession and dispose of the same as she may see fit, stating further that he transfers the said property to her free of any lien or encumbrance, with the exception of the mortgage aforesaid, in favor of the said Obras Pias de la Sagrada Metra, which the vendee hereby undertakes to redeem, the vendor hereby promising to guarantee and defend this sale.

Carmen de la Cavada, accompanied by her husband, Francisco Enriquez y Villanueva, both being of age and residents of this city, personally known to me, to which I certify, with the consent of her husband said that she accepted the aforesaid transfer, under the terms and conditions herein set forth, and that she hereby binds herself to comply therewith in accordance with law, acknowledging the debt of five thousand pesos, with interest at the rate of six per cent. per annum in favor of the said Sagrada Metra, which she promises to pay whenever due, hereby pledging the property thus bought as security of this obligation, also promising to execute a separate deed acknowledging the said mortgage in favor of the said Sagrada Metra, as soon as she is called upon to do so by its attorney in fact.

Finally, both of the contracting parties declare that the eight thousand pesos, the price of this sale, is a fair value of the property sold, and that if the same is worth more or less than the said amount they hereby irrevocably donate such difference to each other, waiving the benefits to which they are entitled under the law relating to contracts in which there is "lesion" in more or less of half of the just price of the property sold, and the four years which the law allows to bring an action upon this ground.

So said the contracting parties in the presence of the witnesses Ambrosio Aquino and Mariano Palacio, residents of this city, of age and personally know- to me; and the parties having been duly informed of the right which they have to read by themselves this instrument, they having waived such right, I proceeded to read the instrument to them, after which they ratified its contents, the vendee signing with her husband and the vendor, Antonio Enriquez, not being able to do so on account of the fact that, although he was well and in good health, was physically incapacitated on account of his being paralyzed in the right hand, Federico Giminez Zoboli, a lawyer, of age, a resident of this city and personally known to me, with the consent and at the request of the said Antonio Enriquez, the vendor, having signed for him, the witnesses also signing these presents. To all of which I certify.

Federico Giminez Zoboli.—Carmen de la Cavada, de Enriquez.—Francisco Enriquez.—Mariano Palacio.—Ambrosio Aquino.—Before me. Miguel Torres.

Thereafter, to-wit, on the 2nd of June, 1902, the Defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, were duly summoned to appear in the court of first instance of the city of Manila within twenty days from the service of the complaint, if made in the city of Manila, or within forty days if made outside thereof, and to answer the said complaint within the time prescribed by the rules of court, it being in the summons that if the defendants should fail to appear within the time fixed, the plaintiffs would have the right to ask that judgment be entered by default, being entitled to the remedy prayed for in their complaint.

Thereafter, to-wit, on the third day of June, 1902, the said summons, with a copy of the complaint, was served upon the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez.

Thereafter, to-wit, on the twenty-first day of June, 1902,
11 Alfredo Chicote appeared in the court of first instance as counsel for the defendants.

Thereafter, to-wit, on the 1st day of July, 1902, the defendants filed their answer to the complaint, which said answer is in the words and figures following, to-wit:

"In the Court of First Instance, City of Manila.

"No. 883.

"RAFAEL ENRIQUEZ et al., Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA, Defendants.

Attorneys, Montagne & Dominguez.

"*An Action to Set Aside a Deed of Sale.*

"Now come the defendants, and by their answer to the complaint allege:

"1. That they generally and specifically deny all the allegations of the complaint, embraced in Paragraphs 1, 2, 3, 4, 8 and 15.

"As a special defense the defendants allege:

"2. That Antonio Enriquez y Sequera was formerly the owner of a house of rough stone and mortar, and the lot upon which it stood, in Calle David, District of Binondo, numbered nine, which is at present bounded on the right by the house of rough stone and mortar of Josefa Sembrano, on the left by the small house of rough stone and mortar of José Saragosa, and according to the old title deeds the said property is bounded on the front by the road leading to the landing place on the river Sibacon, on the right by the house of rough stone and mortar of the deceased Alejandro de los Reyes, on the left by the house of Eustaquio Ocampo, and on the back by the

property of the deceased Father Lucio Victoria; which said
12 property was acquired by the said Antonio Enriquez from Juan Veloso Evangelista, who represented Gabino Veloso del Rosario, by a public instrument executed on the 1st of July, 1861, numbered one hundred and thirty-seven, before the notary public Mariano Saló.

"3. That on the 27th of March, 1883, Antonio Enriquez y Sequera, by a public instrument numbered one hundred and eighty-two, executed in Manila before the notary public Miguel Torres, sold absolutely and forever the property described in the foregoing paragraph to Carmen de la Cavada; that in the said instrument Antonio Enriquez y Sequera said that 'he hereby sells and transfers absolutely the said property to Carmen de la Cavada de Enriquez, with all the uses, easements, rights and actions thereto belonging, for the said sum of eight thousand pesos, of which he hereby acknowledges to have heretofore received the sum of three thousand pesos in local currency, to his entire satisfaction, he hereby waiving the exception of the purchase money not having been counted, also the two years which the laws of the kingdom allow him for bringing an action based thereupon, and as to the five thousand pesos, the balance of the purchase price, the vendee, with the consent of her husband, hereby binds herself to pay the said amount to the Sagrada Metra of this city, promising to pay the same to the attorney in fact of the said sagrada metra whenever the said amount becomes due, together with interest thereon at the rate of six per cent. per annum from this date, which payment she hereby secures with the same property which is the subject of this instrument. The vendor, Antonio Enriquez, hereby executes to the said Carmen de la Cavada de Enriquez such acquittance and discharge as may be necessary for the sum of three thousand pesos heretofore received by him, transmitting to her at the same time the ownership
13 and title of the said property, that she may take possession and dispose of the same as she may see fit,' which said sale and transfer was accepted by the vendee Carmen de la Cavada.

"4. That the said instrument was executed in the presence of Miguel Torres, Entonio Enriquez and Carmen de la Cavada, and also the following named gentlemen: Francisco Enriquez, Federico Giminez Zoboli, Mariano Palacio and Ambrosio Aquino.

"5. That on the 27th day of March, 1883, no fictitious or false instrument was executed as alleged in Paragraph Six of the complaint.

"6. That the vendee Carmen de la Cavada paid in local currency to Antonio Enriquez y Sequera the sum of three thousand Pesos, she acknowledging a lien of five thousand pesos existing upon the said property, thus completing the total amount of the purchase-price of the said property.

"7. That it is absolutely false that on the 27th of March, 1883, or prior thereto, and until the time of his death, Antonio Enriquez y Sequera suffered from a physical and mental infirmity of such a nature as to have continuously deprived him of his reason, rendering him incapable as alleged in Paragraph Two of the complaint,

the allegations of which we specifically deny, and allege that Antonio Enriquez y Sequera, altho' he was ill, did not suffer from the mental and physical infirmity alleged in the complaint, or from any other infirmity rendering him continuously incapable, and that the capability of Antonio Enriquez y Sequera has been definitely established by a judicial decree.

"*3.* That the plaintiffs for more than four years had in their possession, read, examined and approved, orally and in writing, privately and officially, the instrument of the 27th of March,
14 1883, which is a subject of the complaint, as well as other instruments executed by Antonio Enriquez y Sequera during the time that the plaintiffs maliciously and falsely now allege that the said Antonio Enriquez was continuously mentally incapacitated;

"9. That more than nineteen years have elapsed since the date of the execution of the public instrument which is sought to be set aside, and more than four years since the said instrument came into plaintiffs' possession, and was by them read, examined and approved, they having failed to allege facts of sufficient weight to constitute a cause of action.

"Wherefore, the defendants pray the court to enter judgment:

"1st. Acquitting the defendants of the complaint.

"2nd. Directing that the plaintiffs pay the costs of this action.

"3rd. For any other and further relief, as the court may deem proper.

"Manila, June 30, 1902.

(Signed) "ALFREDO CHICOTE,
"Counsel for Defendants."

15 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

RAFAEL ENRIQUEZ et al., Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA, Defendants.

Amended Answer.

Now come the defendants, through their attorneys, Alfredo Chicote and A. D. Gibbs, and, answering the complaint, allege:

1. That they deny all and each of the allegations not hereinafter admitted;

2. That they admit the allegations contained in Paragraphs 10, 11, 12, and 13 of the complaint;

3. That they admit that since the death of the deceased Antonio Enriquez y Sequera, until the year 1900, the defendant Francisco Enriquez was the executor and administrator of the said estate;

4. The defendants allege that on the 27th of March, 1883, the said Antonio Enriquez y Sequera, being the owner of the property

in question, sold and transferred the same to the defendant Carmen de la Cavada de Enriquez, by a public instrument, numbered one hundred and thirty-seven, copy of which is attached to the complaint, in the maner and for the price and under the terms and conditions therein set forth, to which defendants refer as a part of this answer.

5. That in the month of November, 1897, there was a liquidation of accounts made between the plaintiffs and the defendant Francisco Enriquez as executor and administrator of the estate of the deceased, which said liquidation is evidenced in a public instrument executed on the third of November, 1897, and in which the transac-
16 tion which is the subject of the complaint in this case is included. Paragraph five of the said instrument of November third reads as follows:

"5. Rafael and Antonio Enriquez, having stated that they understood that the property in Calle David Numbered Nine, the three posiciones on Calle Barraca, both in the District of Binondo of this city, and the house on Calles Baluarte and Fundicion, belonging to the estate, whereupon they requested that all of the said property be included in the inventory, Francisco Enriquez stated that the house on Calle David numbered nine was sold by his deceased father to Francisco's wife, for the sum of eight thousand pesos, per a public instrument executed by them before the notary public Miguel Torres, on the 27th of March, 1883, a copy of which instrument he then submitted for examination by the claimants; that the house on Calle Fundicion was also sold by his father at a time which he cannot now definitely name, and that the posiciones on Calles Barraca and Riverita were sold by the said Francisco, acting as attorney in fact for his father, to Victoriano de los Reyes, on the 12th of March, 1884, for the sum of two thousand, five hundred pesos, which said amount, plus five hundred pesos, he remitted to his father for the latter's support, through Manuel Enriquez, as shown by a letter from the said Manuel, which said letter, together with a copy of the said deed of sale, he submitted for examination by the claimants.

"Whereupon it was agreed to withdraw the request that the house on Calle David numbered nine be included in the inventory; to withdraw the request as to the inclusion of the posiciones on
17 Calle Barraca, for the reason that the sale and transfer of the same have been duly established; but that Francisco Enriquez be not given credit for this sum until he presents proof of the remittance of an amount equal to the price thereof to his father; and as to the house on Calle Fundicion, that the matter be postponed until some further data in regard thereto is secured."

6. That the plaintiffs had full knowledge of the execution of the said instrument of sale, and of all the facts relating thereto, since the year 1883, and more than four years had elapsed since the execution of the instrument of November 3rd, 1897, quoted in the foregoing paragraph, when the complaint was filed, and for this reason the plaintiffs allege that any action which might have existed in favor of the plaintiffs and against the defendants to set aside the said sale, or the deed of liquidation whereby the claim of the plain-

tiffs arising out of that sale was settled and compromised, had become barred by the statute of limitations before the complaint in this action was filed.

7. That on the 24th of April, 1902, The Honorable Supreme Court of the Philippine Islands, in the case of the United States versus Francisco Enriquez, instituted by the plaintiffs for Rafael Enriquez and Antonio Enriquez as compa*l*ining witnesses, in view of all the facts relating to the mental condition of the testator Antonio Enriquez y Sequera, decided by a final judgment that the said Antonio Enriquez y Sequera was not incapable at the time of the execution of the deed of sale, which is sought to be set aside in this action. A copy of the said decision is hereto attached, marked Exhibit 25, as a part of this answer.

18 Wherefore the defendants pray that judgment be entered acquitting them of the complaint and directing that the plaintiffs pay the costs of this action, and that the defendants be granted such other remedy as may be equitable and just.

Manila, February 24, 1905.

(Signed) ALFREDO CHICOTE,
(Signed) A. D. GIBBS,
Counsel for Defendants.

Indorsement: Received copy this 24th day of February, 1905. (Signed) Hartigan, Marple, Rohde & Gutierrez, Counsel for plaintiffs.

Indorsement: Filed this 24th day of February, 1905, at two P. M. (Signed) J. McMicking, Clerk.

19 "EXHIBIT XXV."

THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

No. 408.

THE UNITED STATES, Complainant and Appellant,
vs.
FRANCISCO ENRIQUEZ, Defendant and Appellee.

APRIL 24, 1902.

Decision, Book I, p. 419.

MAPA, *J.*:

On the 14th of February, 1883, in the district of Binondo, city of Manila, a public instrument was executed before the notary Miguel Torres, the parties to which were Antonio Enriquez y Sequera, of the one part, and of the other Doña Concepcion Dayot. This instrument recites that the notary went to the house No. 4 David Street, in the district above mentioned, for the purpose of authenti-

cating the execution of this instrument. It also recites the sale by Antonio Enriquez to Conception Dayot of a house belonging to him at No. 14 Baluarte Street, Walled City, Manila, for the sum of 7,150 pesos, and that the vendor had already received the sum of 4,484 pesos on account of the purchase price. The notary certified in the instrument that Antonio Enriquez stated he had the necessary legal capability for the execution of this instrument and that in the opinion of the notary this was true. He also certified that the parties to the instrument were personally known to him, that they personally appeared before him, and that the contract was executed in the presence of the witnesses Ambrosio Aquino and Mariano Palacio. The instrument is signed by the latter and by Concepcion Dayot. With respect to the other party to the contract, the deed contains the following statement: "The vendor, Antonio Enriquez, being unable to sign for himself, because, although in good
20 health, he is physically unable to sign by reason of the paralysis of his right hand, his son, Francisco Enriquez, here present, signs at his request." The notary also certified to his personal acquaintance with Francisco Enriquez.

The complainants charge Francisco Enriquez with having committed a falsification in the execution of the instrument in question by falsely simulating the participation of Antonio Enriquez, and by attributing to him the statements contained therein, it being charged that these statements and such participation are wholly false, because on the date in question the said Antonio was physicaly and mentally incapable of executing the instrument referred to.

This incapability the complainants allege to be the result of a cerebral hemorrhage suffered by Antonio Enriquez in October, 1882. They assert as a fact that in consequence of this hemorrhage Antonio Enriquez became paralyzed and totally deprived of reason and speech; that he was constantly, from that time on and up to the time of his death in the month of July, 1884, in a completely imbecile condition and therefore absolutely incapable of making contracts and executing public instruments.

The evidence introduced shows it to be a fact that Antonio Enriquez suffered a hemorrhage in October, 1882, which resulted in the paralysis of the entire right side of his body, and that in consequence he lost his speech and the use of his intellectual faculties for a more or less lengthy period of time, the duration of which is not clearly determined in the record. But we do not consider the evidence to be sufficient to show that subsequently to that time he never recovered his reason or that at the date of the execution of the deed alleged to have been falsified, to wit, on February 14, 1883, he was
21 physically and mentally incapable of executing the same, as affirmed and maintained by the complainants.

In the first place, the testimony of the witnesses for the prosecution does not agree as to the degree and persistence of the effects produced by the illness of Antonio Enriquez. Trinidad Enriquez, a sister of the complainants, testified that Don Antonio remained in such a condition that he could not speak or walk or move or recognize any one; that he had become, as she says, completely

idiotic, the witness giving it to be understood that he remained constantly in this idiotic condition up to the time of his death. Another witness, Carmen Gonzalez, also avers that Don Antonio was deprived of his speech from the time he fell ill until he embarked for Europe (at the end of March or the beginning of April, 1883); but, on the other hand, she says that some days he was better; that sometimes he was rational, and at others not. Luis Quintos, also a witness for the prosecution, testifies, on the other hand, in effect that Antonio Enriquez recovered his speech, although he spoke with difficulty and incoherently. According to this witness he went to see Don Antonio two or three times for the purpose of transacting some business with him in connection with the inheritance of his wife. The first visit was about the beginning of his illness, and the last shortly before his departure for Europe. He testifies that on neither of these occasions did he succeed in attaining his purpose, because they could not reach an understanding, as Don Antonio was unable to answer him clearly. "The replies he gave me," says the witness, "although spoken most laboriously, I could not understand, because I wanted to say one thing and he answered me about something else." The same witness says that on one of those occasions he talked to Don Antonio for about half an hour; but states, however, that during that period he remained silent for a short time, and that he did not continue
22 talking about his business, but about the illness (Don Antonio's, he doubtless meant to say). "I do not think," adds the witness, "that Don Antonio was mentally unbalanced, but as he did not talk about what I was saying I withdrew." Nevertheless, upon being asked to give his concrete opinion with respect to Don Antonio's mental condition, he stated that he believed the latter was incapacitated because he could not give a consistent answer to his questions. It appears that the witness bases this opinion upon the fact that when he said to Don Antonio, "Let us see if we can not make a satisfactory arrangement about the matter," Don Antonio replied to him by saying, "I know nothing about it." This reply, considered in itself, does not in our opinion appear to be so inconsistent as the witness regards it, but might well be interpreted as an intentional evasion, for the purpose of not going into the matter which the witness desired to discuss with Don Antonio.

At all events, it is evident that the testimony of Luis Quintos is in open contradiction with that of Trinidad Enriquez, and Carmen Gonzalez. It would have been absolutely impossible for him to have had a more or less lengthy conversation with Don Antonio Enriquez even if his answers, in the opinion of the witness, were inconsistent, if it were true that Don Antonio had never recovered his speech, as affirmed by Trinidad and Carmen.

The testimony of Agueda Esteban, another witness for the prosecution, is of but little interest in the case. She simply testifies that the illness of Don Antonio Enriquez consisted in his being unable to speak, but without stating whether or not he ever recovered from it. As the only concrete fact which she adduces in support of her assertion the witness states that upon one occasion she ap-
23 proached Don Antonio to complain about the determination of the accused to evict herself and her family from the Teatro

Viejo, where they lived, the property, apparently, of Don Antonio, and that the latter did not reply to her, because he could not speak. This occurred, according to her statement, about the middle of 1882, the fact being that Don Antonio fell ill in October of that year. This detail shows how uncertain is the memory of the witness, more especially if it is held in mind that in one part of her testimony she says that she was evicted from the Teatro Viejo by the accused after Don *Don* Antonio went to Spain, and in another place states that this occurred while Don Antonio was still in the city of Manila.

The testimony of Julian de las Cajigas is of still less importance. This witness was also called by the complainants, and his testimony refers exclusively to the condition in which he saw Don Antonio Enriquez while in Paris. He did not see him once during the time he was ill in this city.

One of the proofs presented by the prosecution is the letter written by the accused on December 30, 1882, to the new complainant, Rafael Enriquez, who was then in Paris, informing him of the illness of Don Antonio, their father, and of his condition at that time. The authenticity of this letter has been admitted by the accused, who also offered it as evidence for the defense, and it therefore has the force of evidence admitted and accepted by both parties. Now, in that letter it is stated, it is true, that Antonio Enriquez had suffered,
some days after the 10th of October, 1882, an attack of par-
24 alysis, complicated with hemorrhage of the brain, which com-
pletely deprived him of movement and of speech, and that the gravity of the attack was such that at first his family despaired of saving him; but it is also true that the letter itself states that some weeks after the attack the patient commenced to improve, slowly at first but rapidly and notably subsequently, to such an extent that at the date of the letter he was able to walk about the house, with the help only of a little girl, and although he had not yet recovered his speech, he was, however, already able to pronounce clearly a number of words, "The doctor," adds the letter, "hopes that he will very soon be able to speak; he (Don Antonio) already eats with us at the table. * * * and at this rate I hope that by the end of January he will be able to walk without assistance."

From this letter it can not properly be inferred that Antonio Enriquez was physically and mentally incapacitated on the 14th of February, 1883, for the execution of the instrument in question. On the contrary, if on the 30th of December, 1882, the date on which the letter was written, he was already able to walk all over the house alone, with the slight assistance of a little girl, and was already able to clearly pronounce a number of words, it is in nowise improbable, in our opinion, that his improvement should have been still more marked in every way a month and a half later, unless he had suffered, in the meantime, some relapse. This, however, does not appear from the record.

We do not consider it necessary to concern ourselves with the opinion of Drs. Manuel Xerez y Burgos and Manuel Garcia Ageo,
cited by the complainants, to the effect that Antonio Enriquez
25 was absolutely incapacitated. This opinion, founded as it is upon the statements of the witnesses for the prosecution and

upon the contents of the letter of December 30, 1882, already spoken of above (for it does not appear that these physicians personally attended Don Antonio), we are unable to give greater weight than that to which it is entitled relatively to the weight which should be given the statements and the letter themselves. It should also be stated that the opinion referred to has been impugned and contradicted in its technical part by Drs. Altmann and Garcia del Rey, called by the defense, who testified that from the evidence in the case it was not possible to draw a sufficiently clear conclusion to form an opinion as to the diagnosis of the illness suffered by Don Antonio, and of its consequences, and that therefore "it cannot be affirmed that the latter remained in the condition stated by the doctors Xerez y Burgos and Garcia Ageo."

In addition to the testimony of these doctors, Messrs. Altmann and del Rey, the defense introduced documentary and oral evidence to demonstrate the capability of Antonio Enriquez at the time of the execution of the deed in question. The oral testimony consists of the declaration of Venancio Ruiz, who says that as solicitor of Jose Roman he filed a complaint against Don Antonio Enriquez for the recovery of a sum of money in February or March, 1883, and that upon service on the latter of the summons, as he was ill, he sent for the witness; that on his arrival Don Antonio said to him, "What is this against me?" "A complaint of Jose Roman concerning a sum of money," replied the witness. To this Don Antonio replied, "Well, I want that complaint to be withdrawn. I am going to Spain, and I want that complaint withdrawn. Make arrangements with my lawyer, Antonio Gomez." The witness states that the conversation continued for ten or fifteen minutes, and that Don Antonio spoke readily, and that he understood him very well, although he observed that he had some difficulty in enunciation. He also adds that during the entire conversation Don Antonio was standing up, leaning on a stick; but the witness noticed, however, that he walked with some difficulty.

The documentary evidence consists, in the first place (1) of a public instrument purporting to have been executed by Antonio Enriquez before the notary public Miguel Torres on the 5th of March, 1883, conferring a power of attorney on his son, Francisco, to represent him in all his affairs and to manage his property, in which instrument it appears that Attorney Federico Gimenez Zoboli signed at the request of Don Antonio, the donor of the power, he being unable to do so himself on account of the disability of his right hand; (2) a copy of an order entered on the 19th of February, 1883, in a case brought in the Court of Intramuros (Manila) by Francisco de Paula Enriquez, in which it is stated that Don Antonio Enriquez has expressed his approval of the taxation of costs in the said case; (3) copy of the record of demand of payment of said costs made personally upon Antonio Enriquez in his house on March 4, 1883, in which record it appears that he himself at that time gave a comparatively long answer, which, as it is unconnected with the case at bar, it is unnecessary for us to repeat. These copies were not impugned by the prosecution and have apparently been compared with their originals.

27 The authenticity of these documents being taken for granted—and they must be presumed to be authentic until their falsity is shown, owing to their legal character as solemn public instruments—we must necessarily admit the reality of Don Antonio Enriquez's participation therein and of the statements therein alleged to have been made by Don Antonio. From this point of view these documents must be regarded as strong evidence as to the capacity of Don Antonio at the time of the execution of the instrument in question, because it is indubitable that he could not have personally participated in the proceedings to which these documents refer, or have made these statements, if he had been physically and mentally incapacitated, as asserted by the complainants.

Part of the documentary evidence of the defense consists of certain letters of a date subsequent to that of the instrument in question, written from Paris by the complainant, Rafael Enriquez, to his brother, Francisco, the defendant herein, the authenticity of which was admitted by Rafael at the trial. These letters corroborate the fact, flatly denied by some of the witnesses for the prosecution, that Antonio Enriquez had really attained a positive and notable improvement during his illness. Thus, for example, in the letter of June 1, 1883, Rafael says: "Father has improved noticeably during the eleven days we have been here. He goes out with me on foot every day, and with little difficulty goes up and down stairs twice a day to the room in which we live; * * * the improvement in his health points to a complete recovery in a few months." In his letter of the 28th of the same month of June he says, "His mind is quite clear, and he talks to me about everything, and particularly about the little girls."

28 Finally, the record contains a letter written to the accused by Don Antonio from Paris, dated September 30, 1883, signed in his own handwriting, as admitted by the complainant, Rafael, himself. In this letter he speaks of some accounts and the sending of money, giving the accused instructions for a certain business transaction, just as any completely sane person might do. The explanation which Rafael has endeavored to give concerning this letter, to the effect that he guided his father's hand in the signing of it, apart from the fact that it is wholly unproven, we consider to be of but little importance after what he himself has said in his letters with respect to the physical and mental condition of Don Antonio Enriquez.

In view of the result of the evidence introduced in the case we are of the opinion that the falsity of the instrument of February 14, 1883, the object of the complaint, has not been proven. This instrument, having been executed before a notary public, and being, therefore, a public document, carries with it the legal presumption of its authenticity until the contrary is fully established.

This conclusion having been reached, it is wholly unnecessary to pass upon the question raised by the defense as to the prescription of the alleged crime, and therefore we make no ruling upon this point.

We therefore decide that the judgment appealed, by which the

accused was acquitted, must be affirmed, with the costs of this instance to the appellant.

Arellano, C. J., Cooper, Willard, and Ladd, JJ., concur.

Torres, J., did not sit in this case.

Defendant acquitted.

29 THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila, Part III.

No. 883.

RADAEL ENRIQUEZ et al., Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and His Wife, CARMEN DE LA CAVADA,
Defendant.

My opinion having been sought as an attorney several years ago, by the plaintiff Rafael Enriquez, as to the facts relating to the matter which is the subject of this action, I abstain from taking any cognizance of this case, and with the consent of the attorneys for both parties it is hereby ordered that this case be transferred to the Honorable A. S. Crossfield, presiding over Part II of this Court.

Manila, April 11, 1905.

(Signed) MANUEL ARAULLO, *Judge.*

Thereafter, to-wit, on the 26th day of April, 1905, the following amended complaint was filed:

UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila, Part II.

RAFAEL ENRIQUEZ, in His Own Right and as the Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, Gertrudis Enriquez, Antonio Gascon, Minor, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA, His Wife,
Defendants.

Now come the defendants, with the permission of the court first obtained, and file this their amended complaint, and allege:

30 1. That Rafael Enriquez is at present, and has been during the last year, the duly appointed, qualified and acting administrator of the estate of Antonio Enriquez, deceased;

2. That on the 27th of March, 1883, prior to that date and until the time of his death, as hereinafter alleged, Antonio Enriquez y

Sequera suffered from a mental and physical infirmity of such a nature as to deprive him, and which did actually deprive him, continuously, of his reason, rendering him continuously incapable of conducting the administration and of managing his ordinary affairs.

3. That on or about the 27th day of March, 1883, the defendants, and each of them, with intention of defrauding and deceiving the said Antonio Enriquez y Sequera and his heirs, fabricated and falsified, and caused to be fabricated and falsified, an instrument a literal copy of which is hereto attached: "Plaintiffs' Documentary Proof 'A' ", in which said instrument it was made to appear that the said Antonio Enriquez y Sequera had executed a deed of sale in favor of the said defendant, Carmen de la Cavada, whereby the said Antonio Enriquez sold and transferred to the said defendant, for the sum of eight thousand pesos, the whole of a piece of property in the city of Manila, Philippine Islands, described as follows:

A house of rough stone and mortar, and the lot upon which it stands, in Calle David, District of Binondo, numbered nine, which is at present bounded on the right by the house of rough stone and mortar of Josefa Sembrano, on the left by the small house of rough stone and mortar of José Saragosa, and according to the old titles deeds the said property is bounded on the front by the road
31 leading to the landing place on the river Sibacon, on the right by the house of rough stone and mortar of the deceased Alejandro de los Reyes, on the left by the house of Eustaquio Ocampo, and on the back by the property of the deceased Father Lucio Victoria; which said property was acquired by the said Antonio Enriquez from Juan Veloso Evangelista, who represented Gabino Veloso del Rosario, by a public instrument executed on the 1st of July, 1861, numbered one hundred and thirty-seven, before the notary public Mariano Saló."

4. That the said Antonio Enriquez y Sequera did not execute or authorize the execution of the said instrument, and that the said instrument has at all times been and now is fictitious, false, fraudulent and null and void.

5. That upon the death of the said Antonio Enriquez y Sequera, deceased, to-wit, on the 31st of July, 1884, the said defendant Francisco Enriquez became the executor and administrator of the estate of the said Antonio Enriquez y Sequera, deceased, and from that date continued acting as such executor and administrator until the latter part of the year 1900.

6. That on the 27th of March, 1883, long prior thereto, and at the time of the alleged execution of the false and fictitious deed of sale, as aforesaid, the said Antonio Enriquez y Sequera was the sole and exclusive owner of an undivided half, and the plaintiffs, together with the defendants and Carmen Enriquez were, and at present are, the exclusive owners of the other undivided half of the property in question.

7. That on the dates hereinbefore mentioned, the property in question had the value of twenty thousand pesos, more or less, and that at present the said property has a value of forty thousand pesos, more or less.

32 8. That neither the defendant, Carmen de la Cavada de Enriquez, nor the defendant, Francisco Enriquez, nor any other person, paid any remuneration whatever to the said Antonio Enriquez y Sequera, or to any other person, either for the said sale or for the said property;

9. That the said Antonio Enriquez y Sequera on the first day of April, 1883, sailed for Europe and left the Philippine Islands, remaining absent from these Islands until the time of his death;

10. That the defendant, Carmen de la Cavada de Enriquez, is at present, and at all times mentioned herein was, the wife of the defendant, Francisco Enriquez;

11. That the said Antonio Enriquez y Sequera, deceased, died on or about the month of July, 1884, in the Kingdom of Spain, leaving a will whereby he bequeathed all the property which he had to his children, share and share alike;

12. That the defendant, Francisco Enriquez, is the eldest surviving son of Antonio Enriquez y Sequera, deceased;

13. That the plaintiffs, and the defendant Francisco Enriquez, are the only surviving children and legitimate heirs of the said Antonio Enriquez y Sequera, deceased, with the exception of Carmen Enriquez, the surviving daughter of the said deceased, who is absent in the kingdom of Spain, and the plaintiff Antonio Gascon, who is the only surviving son of Concepcion Enriquez, one of the daughters who survived the said Antonio Enriquez y Sequera, deceased, and who is now dead;

14. That ever since the twenty-seventh of March, 1883, the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, have collected all the rents and earnings from
33 the said property and have appropriated and continued to appropriate the same to their own exclusive use;

15. That the rent and earnings of the said property during the years 1883 to 1890 amounted to one hundred pesos per month; that the value of the rent and earnings during the years 1890 to 1897 was one hundred and fifty pesos per month; that the value of the rents and earnings from the year 1897 to this date amounted to two hundred and fifty pesos per month:

Wherefore plaintiff prays that judgment be rendered against the defendants and each of them:

First. Setting aside and declaring null and void the alleged instrument of sale above mentioned;

Second. Declaring that one undivided half of the property in question belongs to the estate of Antonio Enriquez y Sequera, deceased;

Third. Declaring that the other undivided half of the property belongs to the plaintiffs, together with the defendants and Carmen Enriquez, share and share alike;

Fourth. Adjudging and decreeing that the defendants and each of them have no right, title and interest to the exclusion of the plaintiffs in the said property, or any part thereof;

Fifth. That the plaintiffs recover from the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, the proportionate

value of the rent and earnings of the said property at the rate of one hundred pesos per month from the year 1884 to the year 1890; at the rate of one hundred and fifty pesos per month from the year 1890 to the year 1897, and at the rate of two hundred and fifty pesos per month from the year 1897 to this date;

34 Sixth. For any other and further relief as to the court may appear equitable and just;

Seventh. For the costs of this action.

(Signed) A. A. MONTAGNE,
Counsel for Plaintiffs,
134 *Calle Beaterio, Intramuros, Manila.*

The copy of the instrument attacked to the original complaint in this action (marked Exhibit "A") is hereby made an integral part of this amended complaint as plaintiffs' exhibit "A."

Indorsed: Received copy of the foregoing petition this twenty-fifth day of April, 1905. (Signed) A. D. Gibbs, Attorney for Defendants.

Indorsed: Filed this twenty-sixth day of April, 1905. (Signed) J. McMicking, Clerk.

Thereafter, to-wit, on the fourth day of May, 1905, a subpœna duces tecum was issued in the above entitled action to Calixto Villafranca, a parish priest of the District of Quiapo, Manila, requiring him to appear before the court of first instance of the City of Manila, Part II, May 5th, 1905, at eight A. M., bringing with him Book V of the Register of Marriages of the parish of Quiapo, which said subpœna duces tecum was duly served upon the said Calixto Villafranca by the Sheriff of the City of Manila on the same said fourth day of May, 1905;

Thereafter, to-wit, on the sixteenth day of May, 1905, counsel for plaintiffs notified the defendants in the above entitled action,
35 and Messrs. A. D. Gibbs and Alfredo Chicote their attorneys, that the Honorable Judge Crossfield of the Court of First Instance of the City of Manila, Part II, had set the twenty-sixth of May, 1905, at eight a. m., for the hearing of such arguments as the parties desired to make.

Thereafter, counsel for defendants filed the second amended answer.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

RAFAEL ENRIQUEZ et al., Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA, Defendants.

Second Amended Answer.

Now come the defendants, through their attorneys Alfredo Chicote and A. D. Gibbs, and by answer to the complaint allege:

First. That they deny all and each of the allegations not hereinafter admitted;

Second. That they specifically deny the allegation that Rafael Enriquez was the administrator of the estate of Antonio Enriquez and Ciriaca Villanueva, and aver that he had no right to bring this action and that he has not such right now to amend the same;

Third. That they admit the allegation in Paragraphs ten, eleven, twelve and thirteen of the said complaint;

Fourth. That they admit that since the death of Antonio Enriquez y Sequera, deceased, until the year 1900, the defend-
36 ant, Francisco Enriquez, was the executor and administrator of the estate of the said deceased;

Fifth. The defendants allege that on the twenty-seventh of March, 1883, the said Antonio Enriquez y Sequera, being the owner of the property in question, sold and transferred the same to the defendant, Carmen de la Cavada de Enriquez, by a public instrument numbered 137, copy of which is attached to the complaint, precisely in the manner and for the price, and under the terms and conditions, therein set forth, which said instrument the defendants refer to as a part of this answer and further allege that since she acquired the said property the defendant, Carmen de la Cavada de Enriquez, has been in possession in good faith and with just title under the claim of ownership, openly, quietly and uninterruptedly, which gives rise to the ordinary prescription of title in favor of the defendants and against the plaintiffs, the latter being considered as present for the reason that they resided in Manila;

Sixth. They deny that one undivided half, or any part of the property in question, belonged to the heirs at the time the transfer took place; that the property was acquired by the deceased, Antonio Enriquez y Sequera, before he married his wife Ciriaca Villanueva, deceased, the mother of the heirs, and cannot, therefore, be considered as a part of the community property of the deceased spouses;

Seventh. That in the month of November, 1897, a rendition of accounts was made between the plaintiffs and the defendant Francisco Enriquez, in his capacity as testamentary executor and administrator of the estate of his deceased father, which said liquida-
37 tion is evidenced in a public instrument dated November 3, 1897, and in other public instrument executed on the 20th of November of the same year, to which the defendant, Carmen de la

Cavada was also a party, in which said instruments all the matters relating to the liquidation and compromise of the claim, which is the subject of the complaint in this case, appears: Paragraph five of the said instrument dated November 3rd, reads as follows:

"5. Rafael and Antonio Enriquez having stated that they understood the property in Calle David numbered nine, and three posiciones on Calle Barraca, both in the District of Binondo of this city and the house on Calles Baluarte and Fundicion, belonged to the estate, and requested that all of the said property be included in the inventory, Francisco Enriquez stated that the house on Calle David numbered nine was sold by his deceased father to Francisco's wife for the sum of eight thousand pesos as per the public instrument executed by them before the notary public Miguel Torres on the twenty-seventh of March, 1883, copy of which instrument he then submitted for examination by the claimants; that the house on Calle Fundicion was also sold by his father, at a time which he can not now definitely name; that the posiciones on Calles Barraca and Riverita were sold by the said Francisco, acting as attorney in fact for his father, to Victoriano de los Reyes on the twelfth of March, 1884, for the sum of twenty-five hundred pesos, which said sum plus five hundred pesos he remitted to his father for the latter's support through Manuel Enriquez as shown by a letter from the said Manuel, which said letter, together with a copy of the said deed of sale, he submitted for examination by the claimants.

"Whereupon it was agreed to withdraw the request that the
38 house on Calle David numbered nine be included in the inventory; to withdraw the request as to the inclusion of the posiciones on Calle Barraca, for the reason that the sale and transfer of the same has been duly established; but that Francisco Enriquez be not given credit for this sum until he presents proof of the remittance of an amount equal to the price thereof to his father; and as to the house on Calle Fundicion, that the matter be postponed until some further data in regard thereto is secured."

Eighth. That the plaintiffs had full knowledge of the execution of the said instrument of transfer and all of the facts relating thereto since the year 1883 and that more than four years had elapsed since the execution of the deeds of settlement on November third and November twentieth, 1897, mentioned in the preceding paragraph, when the complaint in this case was filed, and for this reason the defendants allege that any action which might have existed in favor of the plaintiffs and against the defendants to set aside the conveyance or the instruments of liquidation and settlement whereby the parties compromised a claim made by the plaintiffs on account of the said sale, had become barred by the Statute of Limitations before the complaint in this case was filed:

Ninth. That on the twenty-fourth of April, 1902, The Honorable Supreme Court of the Philippine Islands in the case of the United States versus Francisco Enriquez instituted by Rafael and Antonio Enriquez, complainants, after considering the evidence and the facts relating to the mental condition of the deceased, Antonio Enriquez y Sequera, held in a final judgment that the said Antonio Enriquez

was not mentally incapacitated at the time of the execution of the deed of transfer, which is sought to be set aside in this action. (A copy of the judgment attached to the first amended answer and marked Exhibit "25" is hereby made a part of this second
39 amended answer):

Wherefore, the defendants pray the court to enter judgment acquitting them of the complaint and directing that the plaintiffs pay the costs of this action, granting the defendants such other and further remedy as may be just and equitable.

Manila, May first, 1905.

(Signed) A. D. GIBBS,
" H. D. GALE,
Counsel for Defendants.

In the Court of First Instance of the City of Manila, Philippine Islands.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ and His Wife, Defendants.

It is hereby stipulated that the parties to this action may present and use all the oral and documentary evidence which they may deem convenient, subject to the opposition of the other as to their relevancy contained in the record of the action between Rafael Enriquez versus Francisco Enriquez et al. now pending before this court for a new trial by virtue of a decision of the Supreme Court of the Philippines, which said action bear- number 1385 on the docket of the Supreme Court, the Court of First Instance being hereby authorized to consider so much evidence as it may deem pertinent and relevant for a decision in the above entitled action. All of this without prejudice to the right of the parties to present such
40 additional proof as they may deem convenient, provided such proof is pertinent and material.

(Signed) A. A. MONTAGNE,
Counsel for Plaintiffs.

(Signed) A. D. GIBBS,
ALFREDO CHICOTE,
Counsel for Defendants.

In the Court of First Instance for the City of Manila, Philippine Islands.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ and His Wife, Defendants.

Now come the plaintiffs in the above entitled case and without admitting the sufficiency of the amended answer of the defendants

and particularly of paragraphs five and six, and without waiving any right which they may have to object to the same, file this their reply to the said amended answer by way of amendment of the plaintiffs' complaint as follows:

That the plaintiffs at no time prior to the four years immediately preceding the commencement of this action had knowledge of the fraud, falsification and simulation alleged in the plaintiffs' complaint:

Wherefore, plaintiffs pray that this reply to the amended answer of the defendants be allowed as an amendment to their amended complaint.

(Signed) A. A. MONTAGNE,
Counsel for Plaintiffs.

41 Indorsed: Received copy of the foregoing objection this twenty-seventy day of April, 1905. (Signed) A. D. Gibbs, Counsel for Defendants.

PLAINTIFFS' EXHIBIT "A."

Number 33.

In the Name of God, Amen: I, Antonio Enriquez y Sequera, a European Spaniard, of age, married, chief of administration of second-class, unemployed, and a resident of the District of Binondo, City of Manila, a legitimate son in lawful wedlock, begotten of Francisco Enriquez and Gertrudis Sequera, deceased, the former being a native of Alicante, and the latter a native of Granada, being well and in good health, Thanks to the Divine Creator, and in the full enjoyment of my mental faculties and believing as I do in the mystery of the Holy Trinity and the other mysteries of our Catholic Apostolic Church, in whose faith and belief I have lived and promise to live and die, do hereby execute and ordain this my last will, in the following manner:

First: I commend my soul to God, our Lord, and command that my body be buried in the public cemetery of this province of Manila, leaving the matter of my shroud and burial expenses and the application of Masses for the salvation of my soul to the good judgment of my executors.

Second: I bequeath to the *mandas forzosas* the sum of one peso.

Third: I declare that I am married *infacie eclecie* to Ciriaca Villanueva, by whom I have had the following Children: Dolores, Francisco, Rafael, Josefa, Jorge, Rosario, Carmen, Cayetano, Gertrudis, Antonio, Trinidad, Manuel and Concepcion, all of
42 whom are now living, unmarried.

Fourth: I appoint as my testamentary executors, in the first place, my said wife, Ciriaca Villanueva; in the second place, my son Francisco, and in the third place, my son Rafael, relieving them from the obligation of giving bond and allowing them all the

time which they may require for the execution of this trust and the rendition of accounts.

Fifth: I appoint as guardians of my minor children, in the first place, my said wife, Ciriaca Villanueva; in the second place, my said son, Francisco; and in the third place, my said son Rafael, relieving them from the obligation of giving bond, having my entire confidence.

Sixth: I appoint as my only universal heirs my said children named in the foregoing clause and those who may hereafter be born to me, that after my death they succeed to all my property, rights and actions of whatever nature which I have or may hereafter acquire in any manner whatsoever.

Seventh: I pray and request my executors to collect and pay all that I am lawfully to receive and pay in accordance with law.

Eighth: I declare that my said wife, Ciriaca Villanueva, did not bring any property into the marriage and that she is entitled to one-half of all our belongings, all the property belonging to us being community property.

Ninth: I hereby revoke and set aside all testamentary dispositions heretofore executed by me, either written or verbal, to the end that the same shall have no legal force, either in or out of court, it being my desire that this present will be the only one binding and the only one considered as my last and deliberate will and testament.

So said the testator in the presence of the undersigned notary, Francisco Salanovo, at his residence on Calle de San *San* 43 Vicente, District of Binondo, City of Manila, in the presence of the witness, Juan O'Ryan, a European Spaniard, and resident of the District of San Nicolas, Manila, the attorney-at-law, Fernando de las Cajigas, a Filipino Spaniard, and resident of the District of Santa Cruz, Manila, and attorney-at-law Juan Antonio Gomez, a Filipino Spaniard, and a resident of this City of Manila, Mariano O'Farrell, a Filipino Spaniard, and a resident of the District of Santa Cruz of this City, all of whom subscribed this instrument with me this fourth day of May, 1872, to all of which as well as to the identity of the testator and that of the witnesses above mentioned and the contents of this will I certify. Antonio Enriquez.—J. O'Ryan.—Fernando de las Cajigas.—Juan Antonio Gomez.—M. O'Farrell.—Gracio Gonsaga.—Before me, Francisco Salanovo.

The foregoing first copy is a true copy of the original on file at pages 123 to 125 of my protocol for this year, to which I refer. And at the request of the interested party this copy, on three sheets of stamped paper of the second-class and one sheet of the third-class, Domingo Brillante Perez, and Pedro Bacaní being witnesses thereto. Binondo, this sixth day of May, 1872.

(Signed) FRANCISCO SALANOVO.

PLAINTIFFS' EXHIBIT NUMBER 2.

To the Court of First Instance of the District of Binondo:

I, Justo San José, a solicitor of the Court of First Instance of this City, in behalf of Rafael Enriquez y Villanueva and Antonio Enriquez y Villanueva, as per a power of attorney which I hereby submit, appear and state: That the brothers of Francisco En-
44 riquez, whom I represent, are compelled under the circumstances to apply to this court by means of a criminal complaint in order to avoid further evils, they fearing that they will be absolutely deprived of what they should have inherited from their deceased parents.

For thirteen years they have been deprived of what belongs to them, having been submitted to an administration which has lasted all that time and not knowing at present when such administration will cease.

Inasmuch as every legal question is preceded by a moral one, which explains and confirms other questions which, if they do not merit the punishment fixed by law, they do merit at least disapproval of honest people, I will here narrate all that has happened with reference to Francisco Enriquez, for the purpose of examining his conduct in connection with his administration as attorney in fact for his deceased father and as the latter's testamentary executor, as a justification in the eyes of the court and of the community of the action taken by the complainants in bringing this criminal action against their own brother.

In the month of September of the year 1882, Antonio Enriquez y Sequera was taken seriously ill. Francisco Enriquez notified his brother Rafael, who lived at the time in Paris, of this fact in the following words:

"A few days after the first typhoon he suffered an attack of paralysis which affected the entire right side of his body, which was complicated by a hemorrhage of the brain, depriving him absolutely of movement and speech, and he was in such a critical condition that we all lost hopes of saving him."

A few days afterwards and in a condition which must be
45 presumed of a patient suffering from a paraylsis as that from which Antonio Enriquez was suffering, more or less physically and mentally incapacitated, something which we would not attempt to discuss at this time, the wife of Francisco Enriquez, Carmen de la Cavada, and, as it is natural, with the necessary authority of her husband, entered into a contract of purchase with the paralytic patient, acquiring from him the house on Calle David numbered nine, which said contract of sale was executed before the notary Miguel Torres at the residence of the vendor, without the knowledge of any of the said seven children of the latter, who lived with him.

Supposing, as it is natural to suppose, that a patient in the condition in which Francisco, in the letter, notified his brother Rafael

that his father was, was not able to execute any act or public contract, it is easy to suppose that the said sale was fictitious, although they were very careful to state in the deed through the notary that Don Antonio did not sign because he was unable to do so, but it is doubtful to suppose that, although he was physically able to do so, because he could breathe, his moral condition, or rather his mental condition would not permit any inference from his acts as to the real will of the patient who was thus civilly incapacitated.

However, we cannot pass upon this question now. Let the foregoing be a brief statement upon which to base a judgment as to the conduct of Francisco Enriquez, who authorized with his consent the purchase made by his wife, who, it is well known, had no property whatsoever when she married him.

On the fifth of March of the same year 1883, the symptoms which were inherent in his illness seemed not to have aban-
46 doned Antonio Enriquez, for it appears that they continued until the time of his death, which occurred on July thirtieth, 1884, in the city of Madrid, Spain. On the said fifth day of March, Don Antonio executed a power of attorney in favor of his son, Francisco, authorizing him without doubt to administer, dispose of * * * and perform other acts. By virtue of the said power Francisco Enriquez sold the property on Calle Numancia numbered ten to Victoriano de los Reyes, who apparently never exercised any act of ownership upon the said property, since it appears from the record of the City Assessor and Collector that the tax upon the property was paid by the clerk of Francisco Enriquez, the latter being the person who signed the receipt and collected the rent. For this reason, and for the further reason that Victoriano de los Reyes was never known to possess any property, it is rather suspicious that Francisco Enriquez, being the vendor, as the attorney in fact for his father, and not being able to enter into a contract with his own wife, was lucky enough to find his own clerk, Victoriano de los Reyes, as a purchaser, that he might later on transfer the property to his wife, Carmen de la Cavada, which is practically the same as transferring it to Francisco himself.

47 In his capacity as attorney in fact of Antonio Enriquez, deceased, the said Francisco Enriquez, on the 24th day of December, 1883, and before the notary public of this city, Eustaquia Villablanca y de Mendoza, cancelled the deed of sale of House Numbered Two on Calle Fundicion, Intramuros, for the reason that the purchaser of the same, Concepcion Dayot, claimed that it was not true that she had paid the purchase price of the property; acting also in his capacity as attorney in fact for his father, and on the same twenty-fourth Day of December, 1883, he sold the house in question to the minors Lorenzo, represented by their guardian Dionisio de las Cajigas, and acknowedged to have received as a consideration therefor the sum of four thousand two hundred and forty-three dollars local currency, to his entire satisfaction, which said amount he failed to include in the inventory of the estate of his father, and objected to the same being included therein as requested by Antonio and Rafael Enriquez, the said Francisco Enriquez, the executor, stating

that the house had been sold by his deceased father, as shown by the instrument containing the inventory of the estates of the deceased Antonio Enriquez and Ciriaca Villanueva, executed in the presence of Enrique Barrera y Caldes, a notary public of the city of Manila.

Antonio Enriquez was appointed heir and administrator of the estate of Francisco de Paula Enriquez, Conde de la Puebla, but on account of his illness the administration of the same passed to his son Francisco, who appeared in the abintestate proceedings as attorney in fact for his father, and as such received from the court of first instance of Intramuros, on the thirteenth of March, eighteen hundred and eighty-three, the sum of thirty-seven thousand seven hundred and forty-one pesos and seventy-three centavos, represented by various securities which had been deposited in that court.

Among the heirs to the said abintestate we will mention the
48 Countess of Humanas and the Marchioness of Fuente Piedra, to whom Francisco paid their share, amounting to six thousand pesos and eight thousand five hundred and thirty-six pesos and fifteen centavos, respectively, from the funds of the estate of his deceased father. Francisco Enriquez having been asked by his brothers Rafael and Antonio about the reason for this payment, he said that he had made such payment in his capacity as testamentary executor of Antonio Enriquez, since the latter, as administrator of the estate of the deceased Francisco de Paula Enriquez, received the value of the property which belonged to the said ladies.

Francisco Enriquez received those securities as attorney in fact for his father, but inasmuch as he has not proved that he had credited his father's estate with the amount of the same, it is logical to presume that the fourteen thousand, five hundred and thirty-six dollars and fifteen cents, the amount of the said shares of the Countess of Humanas and the Marchioness of Fuente Piedra were unduly paid from funds belonging to the estate of Antonio Enriquez, and therefore the amount of the said shares received by him, the said Francisco Enriquez, from the court of first instance, *a*t the attorney in fact for his deceased father, must still be in his possession.

Such supposition is more than logical, because the first item appearing on the debit side of the inventory is two hundred and seventeen thousand four hundred and one dollars and ninety-seven cents, stated to have been collected by Francisco Enriquez as attorney in fact and testamentary executor from the year 1883 to the year 1896, and the amount of the said shares cannot be considered as included in that item. The said attorney in fact and executor
49 himself, states in the instrument wherein the inventory is contained that he paid the value of those shares because the deceased Antonio Enriquez was bound to pay that sum, he being the administrator of the estate of the said Francisco de Paula Enriquez, and further, that his father had received property which actually belonged to the Countess of Humanas and to the Marchioness of Fuente Piedra. But this is absolutely false, because it was fully established in the abintestate proceedings that the person who received all of the property of the said estate, or the greater part thereof, was the said Francisco Enriquez as attorney in fact for his father. It

will be observed that of the thirty-seven thousand seven hundred and forty-one dollars which he in his capacity as attorney in fact received from the court of first instance of Intramuros on the thirteenth of March, eighteen hundred and eighty-three he not only did not pay the sum of fourteen thousand five hundred and thirty-six dollars, which as a matter of fact he paid to the said Countess and Marchioness from the funds of the estate of Antonio Enriquez, deceased, but that he also failed to pay the share which his father had in the said estate, or, in other words, he did not charge in the inventory the part of the thirty-seven thousand seven hundred and forty-one pesos to which his father was entitled, either as a part or a total payment of the sixteen thousand four hundred and forty-eight dollars, his share in the estate of the deceased Francisco de Paula Enriquez, but, as stated by him in the inventory, this was due to the fact that his father was the person who received the proceeds of the property of the estate belonging to them (he means to the Marchioness of Fuente Piedra and the Countess of Humanas).

50 Francisco Enriquez having been appointed judge of the court of first instance of Quiapo, was tried upon a complaint for "falsidad" (making a false statement in a public instrument), committed in a petition presented by him January 20, 1885 to the Royal Audiencia (Supreme Court), wherein he stated under oath that there was certain property in the province which belonged to the estate of his deceased father. This statement was made by him at a time when in one way or other he had taken possession of his ancestor's estate, as shown by the fact of his having rendered an account thereof for the years 1883 to 1896. However, in the inventory inserted in the instrument above referred to, no mention is made of any property of the estate situated in the provinces. The only conclusion that can be reasonably drawn from this is that either he intended to deceive the court, by stating that such property existed, or, if it did in fact exist, that he was attempting to deceive his co-participants in the estate by selling that property.

If we were to set forth in the tale the many things done by Francisco Enriquez to the prejudice of his brothers, we would be undertaking a never-ending task. However, in addition to what has been said, we would like to state that there appear in the inventory in question certain credits against Mariano Dedal, Honorato Rocamora, Maria Hidalgo, Juan Briones and others, the documents evidencing which he has failed to present, notwithstanding the fact that he has admitted in a private instrument, signed by himself, your petitioners and Moreno Lacalle, which said document is now in the hands of the said Moreno Lacalle, that he had taken steps with a view to the collection of the said credits. We should also like to say something

51 about certain gold mines, which Antonio Enriquez, deceased, had in the mountain of Caloccop, in Mambulao, known as "El Rosario", "Las Animas" and "El Anela de Oro." These mines, after the death of the owner, continued to be worked by his son George. Rafael Enriquez, who was at the time in London, hearing that negotiations were pending there for the sale of the said mines, wrote to his brother Francisco for information on the

subject. Francisco replied as follows: "The mining claims in Camarines Norte should have been forfeited long ago, even in father's lifetime, he having abandoned them"; and it would be important to ascertain why the inventory only shows six shares as belonging to the estate of Antonio Enriquez, while the books of the Hongkong Bank show nine shares in favor of Francisco P. Enriquez, this being the name, the initial of the second name and the surname of the Count of Puebla, and whether those nine shares represent the six shares which Francisco claims were acquired by his father and the three shares which he says he bought; but as to these and other facts there is no positive evidence now available. We shall therefore pass them over until a better opportunity.

Francisco Enriquez' conduct toward his brothers, during the last twelve or thirteen years, has been unprecedented, irregular and improper; he has encouraged disunion among them, has denied them all means of support, having finally delayed the settlement of their parents' estate for twelve years, by incidental and dilatory proceedings. Realizing, however, that judicial intervention was imminent, he sought a compromise with his brothers, promising to at once make an extra-judicial partition of the estates.

Pursuant to this agreement, he first appointed as commissioners to make the partition Jose J. Icaza and José Mariano Lacalle; the former having died, the latter was empowered to make the partition himself, as shown by a public instrument executed August
52 25, 1896; but my clients, fearing that the partition would never be completed, not because the attorney appointed for that purpose might not be able to make the same, or because the parties might refuse to approve it, but because Francisco might leave the Islands, he having already sold all his household furniture, are constrained to file this complaint.

Facts.

1st. By a public instrument numbered eighty-six, executed on the 14th of February, 1883, before Miguel Torres, a Notary Public, in and for this city, Antonio Enriquez sold to Concepcion Dayot, the house of rough stone and mortar on the corner of Calles Cabildo and Baluarte, Intramuros, of this city, for the sum of seven thousand, one hundred and fifty pesos, of which he acknowledged to have received prior to the execution of the said instrument, the sum of four thousand, four hundred and eighty-four pesos, the purchaser agreeing to pay the balance of two thousand seven hundred and sixty-six pesos to the Ecclesiastical Chapter of this city. On the twenty-fourth of December, 1883, Francisco Enriquez, as attorney in fact for his father, and the said Mrs. Dayot, executed a public instrument cancelling the former deed, for the reason, as stated by the purchaser, that she had neither paid to the vendor the purchase price or executed any deed acknowledging that she was indebted to the Ecclesiastical Chapter: wherefore, she there and then returned the property in question, with all the rights and actions thereunto belonging, to the vendor Antonio Enriquez; and by another instrument, exe-

cuted on the same day, the said Francisco Enriquez, as Attorney in fact for his father Antonio Enriquez, sold to Dionisio de las Cajigas as guardian of the minors Manuel, Enrique and José Lo-
53 renzo, the said house on the corner of Calles Cabildo and Baluarte, numbered two Calle Fundicion, Intramuros, for the sum of six thousand nine hundred and nine pesos, acknowledging that prior to the sale he had received as attorney in fact for his father the sum of four thousand two hundred and forty-three dollars local currency, to his entire satisfaction, waiving any objection which he might have by reason of the failure to actually count the money. Cajigas, as guardian for the said minors, on his part acknowledged to be indebted to the Ecclesiastical Chapter for the balance of the purchase price, which he promised to pay with interest thereon at the rate of six per cent. per annum, pledging the property in question as security for such payment.

By a public instrument numbered eight hundred and eighty-two, executed November twentieth this year, by Rafael Enriquez in his own right and in behalf of Rosario, Gertrudis and Trinidad, all surnamed Enriquez, Antonio Enriquez for himself and in behalf of Concepcion Enriquez, and Francisco Enriquez for himself and in representation of Carmen Enriquez and Carmen de la Cavada, his wife, before Enrique Barrera y Caldes, a notary public in and for this city of Manila, agreed, among other things, that the accounts of the executor from 1884 to the latter part of June, 1896, and those of his administration of the estate of Antonio Enriquez during the year 1883, be recapitulated in the manner set forth in the said instrument, which the notary terms "Inventory of the property of the Etates of the Spouses Antonio Enriquez y Sequera and Ciriaca Villanueva y Solis." Inasmuch as House No. 2 on Calle Fundicion had not been included in the inventory, Rafael and Antonio Enriquez asked that it be included therein. Francisco then replied that it had not
54 been included in the inventory because it had been sold by the deceased Antonio Enriquez, he being unable to state when, whereupon it was decided to postpone the matter for a further discussion until the documents evidencing the sale could be produced.

With reference to this matter, it appears: first, that Francisco Enriquez, acting as Attorney in Fact for his father, sold House Numbered Two on Calle Fundicion, Intramuros, and that as such attorney in fact he received the purchase price, to-wit, four thousand, two hundred and forty-three pesos; and second, that Rafael and Antonio Enriquez, having requested that the property in question be included in the inventory of the estate of Antonio Enriquez y Sequera, it developed that it had not been so included for the reason, as stated by the executor, that it had been sold by the deceased Antonio Enriquez. The executor, however, was unable to say when it was sold.

All of the foregoing appears from documents numbered 2, 3, and 4 and paragraphs 2nd and 7th of Document No. 5, hereto attached.

2nd. Antonio Enriquez y Sequera was appointed judicial administrator of the estate of Francisco de Paula Enriquez, Conde de la Puebla, and Francisco Enriquez Villanueva, the son of Antonio

Enriquez, appeared in the said proceedings as attorney in fact for his father and received in the latter's name the property belonging to the said estate, which included certain securities, amounting to thirty-seven thousand and seven hundred and forty-seven pesos and seventy-three centavos, which said securities were delivered to him by the court of first instance of intramuros on the thirteenth of March, 1883. It appears from the deed of inventories that the Marchioness of Fuente Piedra was paid eight thousand five
55 hundred and thirty-six pesos and fifteen cents and the Countess of Humanas six thousand pesos, out of the funds of the estate of Antonio Enriquez, Francisco Enriquez y Villanueva declaring in the said instrument that these payments were made by him as executor of the said estate, because they represented a claim against the estate of the said Antonio Enriquez, who in his capacity as administrator of the said estate of Francisco de Paula Enriquez, Conde de la Puebla, had received the proceeds of the property belonging to them from the said estate, the former being an heir abintestate of the said Conde de la Puebla and the latter the heir of another heir, Cayetano Enriquez, of the said Conde de la Puebla, Francisco Enriquez claiming that Antonio Enriquez never paid this money to them.

The foregoing appears from the abintestate proceedings of Francisco de Paula Enriquez, instituted in the court of first instance of Intramuros, the record of which, according to my clients, is now in the hands of the attorney José Mariano Lacalle, and by the second paragraph of Chapter Seven of the public instrument above referred to, which is hereto attached and marked No. 5.

3rd. Antonio Enriquez was one of the heirs abintestate of the said Countess de la Puebla, and part of the property left by the latter, to the extent of seventeen thousand, four hundred and forty-eight dollars, was awarded to him. Francisco Enriquez y Villanueva as attorney in fact for his father, received the whole or the greater part of the property left by Francisco de Paula Enrique, but he failed to pay his father his own share, since no such payment appears in the accounts rendered by him as attorney in fact and testamentary administrator of the estate of his deceased father, and further,
56 because this amount is not included in the inventory of the property of Antonio Enriquez y Sequera.

The foregoing appears from the said abintestate proceedings and from the said deed of inventory, and Document No. 5, hereto attached.

4th. That the inventory embodied in the instrument of November 20th last does not include any property situated in the provinces, although it is a well known fact that *that* the executor's father had such property, as the executor himself stated under oath in a petition presented by him to the Royal Audiencia (the Supreme Court) of these Islands, on the twentieth of January, eighteen hundred and eighty-five.

The foregoing appears from the deed of inventory itself, marked Document Numbered Five, and by a copy of the said petition, hereto attached and marked No. 6, we being unable to present a certified

copy thereof, but refer to the files of the Royal Audiencia, where the original may be found, and to the record of the criminal case for the crime of "falsidad" against Francisco Enriquez Villanueva, when he was judge of the court of first instance of the District of Quiapo.

Legal Classification of the Foregoing Facts.

First. The acts referred to in Paragraph 1st of this complaint constitute the double crime of misappropriation and "falsidad" (false statement in a public instrument), committed by Francisco Enriquez y Villanueva, who having sold House No. 2, Calle Fundicion, as attorney in fact for his deceased father, received or admitted to have received four thousand two hundred and forty-three pesos as part of the purchase price, but failed to include this payment in the accounts rendered by him as such attorney in fact. For this reason, it is evident that he has appropriated to himself the four
57 thousand two hundred and forty-three pesos which he received in his capacity as attorney in fact for his father and which he was under obligation to deliver to his principal or to the latter's heirs.

Francisco Enriquez Villanueva is guilty of the crime of "falsidad" (false statement in a public instrument), in that he told a falsehood in the deed of inventory in question, wherein he stated that House No. 2 on Calle Fundicion had been sold by the deceased Antonio Enriquez, when, as a matter of fact, he himself sold it, on the twenty-fourth of December, 1883, as attorney in fact for his father.

Of the foregoing crimes the accused is responsible by direct participation therein, the offences being defined and penalized in Paragraph 5, Section 535, and Section 300, of the Penal Code, respectively.

Second. The acts referred to in the second paragraph of this complaint also constitute the double crime of misappropriation and "falsidad" (false statement in a public instrument).

Francisco Enriquez having received the property of the estate of the deceased Conde de la Puebla, which included the thirty-seven thousand, seven hundred and forty-one pesos represented by various securities, and which were delivered to him as such attorney in fact for his father, by the court of first instance of Intramuros, on the thirteenth of March, eighteen hundred and eighty-three, and he having failed to include the said amount in the accounts rendered by him as such attorney in fact in the year 1883, it is very clear that he is guilty of misappropriation, because he has applied to his own use the aforesaid amount of thirty-seven thousand seven hundred and forty-one pesos received by him as aforesaid in his capacity as attorney in fact for Antonio Enriquez y Sequera, under the
58 obligation to deliver the same to his principal or to the latter's heirs.

And the crime of "falsidad" (false statement in a public instrument) consists in that he stated in the aforesaid instrument of Inventories that he had paid, as executor of his father's estate, to the Marchioness of Fuente Piedra and to the Countess of Humanas, the

fourteen thousand five hundred and thirtys-x pesos in question "because it was an obligation incurred by the deceased Antonio Enriquez, who, in his capacity as administrator of the estate of Francisco de Paula Enriquez, Conde de la Puebla, had received the shares which the said ladies had in the said estate, and which Antonio Enriquez had never paid to them," when, as a matter of fact, he, Francisco Enriquez himself, received from the court of first instance the whole, or at least the greater part of the said estate, and particularly the securities which were delivered to him as attorney in fact for his father, who was the administrator of the estate of the Conde de la Puebla.

Of both these crimes Francisco Enriquez is responsible, by direct participation therein, the offenses being defined and penalized in the aforesaid provisions of the penal code, to-wit, Paragraph 5, and Sections 535 and 300 of the Code.

Third. The acts enumerated under Paragraph 3 constitute the crime of misappropriation, also covered by the provisions of Paragraph 5, Section 535 of the Penal Code, and the accused Francisco Enriquez is guilty thereof by direct participation therein.

Indeed, as attorney in fact for the administrator of the estate of the Conde de la Puebla, he received, as has been said, the whole, or the greater part of the property of the said estate, and particularly
59 the thirty-seven thousand, seven hundred and forty-one pesos which the court of Intramuros delivered to him on the thirteenth of March, eighteen hundred and eighty-three, in various securities, and his principal, Antonio Enriquez y Sequera, being one of the heirs abintestate or legatees of the said Conde de la Puebla, he should have paid to him his share and included that amount in his accounts as attorney in fact or in his accounts as executor of the property left by his deceased father.

He having failed to account for the said amount in either way, and he having received as aforesaid the whole or the greater part of the property of the said estate, there is no room for doubt that Francisco Enriquez Villanueva did actually appropriate to himself the share which corresponded to his father, which share he received as attorney in fact for the administrator of the intestate estate of the Conde de la Puebla, with the obligation to deliver the same to his principal or to the latter's heirs.

Fourth. The facts related in the last paragraph of this complaint constitute the crime of perjury in a criminal case, as defined in Section 319 of the Penal Code, provided the existence of the property to which the sworn statement refers actually existed, and was merely an invention on the part of Mr. Enriquez to further his own ends, or they may constitute the crime of misappropriation, under paragraph 5, Section 535 of the Penal Code, if the property referred to in the said sworn statement actually existed.

He having stated under oath in the petition presented by him to the Royal Audiencia of these Islands, that the estate of his deceased father, Antonio Enriquez, owned certain property situated in the provinces, and having failed to include the same in the inventory embodied in the instrument of the twentieth of November last, it is

evident that if that property did not actually exist he there
60 and then committed the crime of perjury; and that if on the contrary the said property actually existed, it is quite evident that Francisco Enriquez as executor under his father's will appropriated the same to his own use as such executor, being therefore under the obligation to return the same to the heirs of Antonio Enriquez.

Steps That Should Be Taken.

First. Inasmuch as the charges under paragraphs second and third of this complaint are partially supported by the record of the abintestate proceedings of Francisco de Paula Enriquez, Conde de la Puebla, instituted in the Court of First Instance of Intramuros, which said record is now in the hands of the Attorney José Mariano Lacalle, residing at No. 6 Calle General Solano, an order should be made directing that the said record be returned to the court.

Second. A certified copy of the petition presented by Francisco Enriquez on the twentieth of January, 1885, to the Royal Audiencia of these Islands being necessary to support the charge under Paragraph Four, it is suggested that the said Supreme Court be requested to issue a certified copy of the same.

Venue.

The court having jurisdiction over the crimes thus charged is that of the District within which the same were committed, in accordance with the provisions of sections 29 of the Compilation and the provisions of the Code of Criminal Procedure amended by the Royal Decree of the 6th of March, 1880. These crimes were committed in the instrument embodying the inventories, executed on the 20th of November last, before Enrique Barrera y Caldes, a notary of this city, residing at No. 2 Calle Anloague, in the District of Binondo.

61 As to the crimes of Estafa, the principal evidence in support thereof having been discovered in the District of Binondo, where the instrument in question was executed, and there being no evidence as to the place where the said acts of misappropriation were actually committed, the court of first instance of the said district is the competent court having jurisdiction of the same, in accordance with the provisions of Section 30, Paragraph 1 of the said Compilation.

Independent of this last provision and the crimes of "falsidad" (false statement in a public instrument) and misappropriation, committed by Francisco Enriquez, being allied offenses, for the reason that one was committed in order to facilitate the commission of the other, there is no doubt that, the crime of "falsidad" (false statement in a public instrument) being punished by the Code with a more severe penalty than the crime of misappropriation and the former having been committed in the District of Binondo, where the public instrument was executed, the court of first instance of the said Dis-

trict is the competent court to try both cases, in accordance with the provisions of section thirty-five and paragraph 1 of the said Compilation.

For the foregoing reasons I pray the court, upon consideration of this petition and the power of attorney and documents hereto attached, to allow this complaint, which is not signed by the complainants themselves because they have conferred upon the undersigned a special power for this purpose:

To direct that the said Francisco Enriquez y Villanueva, a resident of this city and domiciled at No. 14 Calle San Sebastian, be proceeded against criminally, and that an order for his provisional arrest
62 be issued, this being one of the cases covered by Rule 32 of the provisional law for the application of the Penal Code; directing also that his property be attached in the extent that the court may deem necessary for the purposes of this action, and that all these and future proceedings be had with my intervention, and that the original record of the same be delivered to me, to the end that I may make such further petition to the court as may be proper and just.

Manila, December 17, 1897.

AGUSTIN MALFAS,
Licentiate of Law.
J. SAN JOSÉ Y ANTONIO.

63 PLAINTIFFS' EXHIBIT 3.

Testimony of Luis Quintos.

LUIS QUINTOS, a resident of the District of San Sebastian, of this City, and a sanitary inspector, having been first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. What is your age?
A. 48 years.
Q. How long have you resided in Manila?
A. Since I was born.
Q. Were you acquainted with Antonio Enriquez and his heirs, the Enriquez brothers?
A. Yes, sir.
Q. Did you know them in the City of Manila in the years 1882 and 1883?
A. Yes, sir.
Q. Do you remember whether Antonio Enriquez was ill in the years 1882 and 1883?
A. Yes, sir.
Q. Did you visit the house of Antonio Enriquez during his illness?
A. Two or three days after he fell ill, I went to visit him.
Q. About what month and year was it when he fell ill and you went to visit him?

A. During the month of October; I do not remember the year.
Q. Do you remember the year.
A. I do not.
Q. With reference to the departure of Antonio Enriquez for Spain, do you recollect the month and year in which you visited Antonio Enriquez?
64 A. It was in the month of October of the previous year, in 1882.
Q. Where did Antonio Enriquez live when you visited him for the first time?
A. In Calle David, Number four.
Q. Did you visit him again after that date?
A. Yes, it was after a long time, because the first time I went there he was sick and my object was to settle some family affairs, after that I went to the Escolta, whither he had removed a few days after he was taken ill.
Q. Do you remember about how long he lived on the Escolta before he left the Islands?
A. Three or four months.
Q. Did you visit Antonio Enriquez on the Escolta before he went away?
A. Long before he went away, in the month of March.
Q. When you first visited Antonio Enriquez on Calle David, did you speak to him?
A. Yes; but I was unable to speak to him, because he was paralyzed and deprived of his reason and speech. He was in bed.
Q. Did you speak to him?
A. I spoke to him, but he did not answer.
Q. How did he answer?
A. It was impossible to understand what he said.
Q. Did you understand what he wanted to say?
A. No.
Q. Can you tell whether or not when you visited Antonio Enriquez on Calle David in the month of October, 1882, he was in bed or on his feet?
A. He was in bed.
65 Q. Did you notice whether Antonio Enriquez moved in his bed?
A. No.
Q. You have stated that after that visit, shortly afterwards, about the time he was taken sick, he removed to the house on the Escolta?
A. Yes, sir, he moved to the Escolta shortly afterwards; some fifteen or sixteen days later he removed.
Q. You said that you visited him on the Escolta, did you not?
A. Yes, sir, two or three times.
Q. What house was that on the Escolta?
A. House Number fourteen.
Q. You mean the English Drug Store?
A. Yes.
Q. When you visited Antonio Enriquez on the Escolta, were you able to speak to him?

A. I spoke to him, but I could not get any answer to my questions.

Q. Did you at any time understand what Antonio Enriquez said to you, when you talked to him on that occasion on the Escolta?

A. Some times, yes, but he talked about something different from what I spoke of.

Q. How did he answer?

A. He stammered. When I asked him any question, he answered something different, and as I went there on an important matter and was unable to talk with him with reference to that matter, I did not speak to him any more.

Q. When you visited him on the Escolta was he in bed or on his feet?

A. He was in bed.

66 Q. Did you notice whether Antonio Enriquez moved in his bed?

A. I did not see him move or get up from his bed, because he was always lying there.

Q. At the various times that you called on Antonio Enriquez, at his house on the Escolta or on Calle David, did he ever speak to you in such a manner that you could understand what he said?

A. No.

Cross-examination by Mr. CHICOTE:

Q. Do you remember on what day you saw Antonio Enriquez on the Escolta?

A. In the month of October, 1882, I went to see him on Calle David.

Q. And on the Escolta?

A. In the month of March; I do not remember the year, because this happened long ago.

Q. Did you call on him again?

A. In the month of March I went there, but I cannot remember the day.

Q. The first time, what did you do on the Escolta?

A. I intended to see Don Antonio about an important matter, but I let several days go by because I could not transact any business with him.

Q. On the various occasions that you have stated that you called on Antonio Enriquez, how long did you talk to him?

A. The first time about five minutes, because when I learned that he was sick I left the house.

Q. And the second time?

A. Five or ten minutes.

Q. And the third time?

A. The same.

67 Q. Do you remember having testified as a witness in a criminal case against Francisco Enriquez in the Court of First Instance of the District of Binondo that you had had a conversation with Antonio Enriquez for about a half hour?

Mr. MONTAGNE: I object to the question because counsel should present the testimony to the witness and fix the date.

The COURT: The witness has a right to know what appears in the record with reference to the testimony, and counsel must ask his question with reference to it.

Mr. CHICOTE:

Q. Do you remember whether you testified in a criminal case against Francisco Enriquez in the Court of First Instance in the District of Binondo?

A. Yes.

(Mr. Chicote read the witness' testimony, appearing in the record of Criminal Case 21, of the Court of First Instance of Binondo against Francisco Enriquez for "Falsidad" (false statement in a public statement) pages 35, 36, 37, 38 and 39.)

Mr. CHICOTE:

Q. Do you remember having testified in that case that on that same afternoon he was taken sick in the year 1882 you went to see him on the Escolta?

A. Yes, sir.

Q. How can you explain your statement that you went to Antonio Enriquez' house three or four times after he fell ill when, as a matter of fact, you went there on the afternoon he was taken sick?

A. I did not say I went to see him before he was taken sick. When I learned that he was sick on Calle David and when he was thereafter removed to the Escolta, and while on the Escolta, I
68 visited him. It may be that it was two or three times; I cannot state the dates exactly, but the afternoon he was taken sick I went to see him on Calle David.

Q. Do you remember that the afternoon he was taken sick was in the year 1882?

A. I am not sure about the dates. The afternoon I learned he was taken sick, as soon as I was informed of this fact, I went to see him, and when I arrived at this house the family was very much alarmed to ascertain whether or not he was sick.

Q. You have just stated that it was two or three days after you learned that he was sick that you visited on the Escolta and that it was on the Escolta that he was taken sick. Mr. Calderson asked you the following question: "Was it on the day that he was taken sick?" and you answered, "It was when he was carried there, the same day he was taken sick," and you further answered, "I learned of his being sick on the same day about 7 o'clock in the evening."

A. That statement is not correct. Fifteen or twenty minutes after he was taken sick he was removed to the Escolta. As I did not live with him, I do not know whether he was taken there on the same day or whether it was some days afterwards. I cannot state the year and date, because this happened a long time ago, but I formerly visited him on Calle David.

Q. Then you were asked, "Do you remember having called on Don Antonio Enriquez for the purpose of speaking to him about the

matter of your wife?" and you said, "At first I went there twice and I went there again, but as on all three occasions I realized I
69 could not get anything out of it, I put the matter in the hands of my lawyer, and did not go there again with reference to this matter."

A. That answer has been changed. I did not say that. I only went once to Calle David. I refer to the two visits on the Escolta, because I did not have time to go to Calle David, and I did not want to insist for the reason that I knew that I could do nothing with reference to the matter. In the month of March I made my last visit.

Q. Do you remember on what date Antonio Enriquez was removed from Calle David to the Escolta?

A. No.

Q. And how is it that you have previously stated that it was some fifteen days after that he was taken sick that he was removed to the Escolta? Do you know when he was removed?

A. I do not remember the date, but it was several days afterwards when he was removed to the Escolta.

Q. Were you present the day he was removed?

A. No.

Q. Did you see him when he was removed?

A. No.

Q. And how was it that you have testified that he was removed some fifteen days afterwards?

A. Because I could know it without having been present.

Q. Did you visit Antonio Enriquez in the month of October on the Escolta?

A. No.

Q. Did you visit him in the month of November?

A. No.

70 Q. And in the month of December did you visit him?

A. No.

Q. And in the month of January?

A. No.

Q. Did you visit the family on the Escolta and on Calle David in the month of October?

A. Yes, on Calle David.

Q. Did you visit him in the same month of October on the Escolta?

A. No.

Q. In the month of November?

A. No.

Q. In the months of December, January and February?

A. No; until March.

Q. How did they tell you that he had been removed fifteen days afterwards?

A. I was told so two or three days after he was removed on the Escolta, but I did not want to see him until I was informed that he intended to go to Spain.

Q. You mean to say that you saw Antonio Enriquez on the last two occasions on the Escolta on the eve of his departure for Spain?

A. It was in the month of February or March, the last time was in March.

Q. Was the other time in February or March?

A. The last time was in the month of March; I do not remember whether it was in February or March, but the last two visits I made while he was on the Escolta.

Q. State positively how many times you visited Antonio Enriquez during his illness?

A. Three times.

71 Q. Only three times?

A. Yes.

Q. One in the month of October?

A. Yes.

Q. One in the month of October?

A. Yes.

Q. The other times that you visited Antonio Enriquez were on the Escolta, were they not?

A. Yes, sir.

Q. You are positive that he was removed to the Escolta some fifteen days after he was taken sick, are you not?

A. Yes, sir.

Q. Are you sure that you did not call four times on Antonio Enriquez?

A. Yes.

Q. You mean to say that you did not succeed in speaking to Antonio Enriquez, but that you saw him?

A. Yes.

Q. You did not succeed in speaking to Antonio Enriquez on the two occasions that you saw him, did you?

A. No, sir.

Q. Did you speak to him the last time that you saw him?

A. Yes, but it was a very commonplace conversation, on no particular subject.

Q. What did you say to Antonio Enriquez?

A. I asked him about the business.

Q. What did he answer?

A. Something very different from what I talked to him of.

Q. How long did you talk to Antonio Enriquez?

A. I cannot say, a very short time, some ten or fifteen minutes at least. I did not stay there very long, because I realized that it was impossible to speak with him.

72 Q. Did you see Antonio Enriquez on the day he left for Spain?

A. No.

Q. Did you see him go?

A. No.

Q. Do you remember having seen Antonio Enriquez on the fifth of March, 1883?

A. That was on my second visit; I cannot say exactly

Q. Can you state whether or not he was there?

A. I cannot say.

Q. Was Don Antonio Enriquez improving from his illness?
A. I have already stated that the family claimed that he was improving, but I could only see him the third time I went there.
Q. The third time you saw him, was he in the same condition and the same state of illness?
A. I always found him in bed.

Mr. MONTAGNE: I object to the question because the witness is not qualified as an expert in medicine.
The COURT: The witness may answer and counsel has a right to ask the question.

Mr. CHICOTE:

Q. Can you state positively whether or not he had improved?

Mr. MONTAGNE: I object to the question on the same grounds.
The COURT: The witness may answer.
Mr. MONTAGNE: Exception.

A. I understood that he was seriously ill, and the two occasions on which I went there I found him lying in bed and he was unable to speak.

Q. Do you remember about what matter you desired to
73 speak to Antonio Enriquez?
A. Family affairs.
Q. What affairs were those?
A. The condition of the matters relating to the partition of certain property belonging to my family.
Q. What was it that you wanted from Antonio Enriquez?
A. To make the matters clear to me and to see whether there was some way of settling all these affairs.
Q. You mean to say that you were unable to understand what he said?
A. When he answered me he referred to other matters which were entirely different, and as I saw that it was impossible to speak with him about the matters which concerned me, I did not think it proper for me to bother him any more, because I realized that he was sick and that it was impossible for him to understand what he was saying.
Q. Did Antonio Enriquez answer your questions?
A. Yes, but I could hardly understand his answers.
Q. But he did answer you, did he not?
A. Yes, sir.
Q. And you understood what he said?
A. No, I was unable to understand what he was saying. Sometimes he would say certain words that were absolutely incoherent and entirely different from the subject, and it was impossible to make any sense out of it.
Q. How many questions did you ask Antonio Enriquez?
A. Two or three questions. I asked him how he was and how were our matters getting along.

74 PLAINTIFFS' EXHIBIT 4.

Testimony of Pascual Reyes.

PASCUAL REYES, residing at 213 Calle Gandara, having been first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. What is your age?
A. Fifty-five years.
Q. How long have you resided in Manila.
A. For a long time.
Q. How long?
A. Forty-five years.
Q. Did you know Antonio Enriquez in his lifetime?
A. Yes.
Q. Do you remember the date on which Antonio Enriquez left for Spain?
A. No.
Q. Were you present when Antonio Enriquez sailed for Spain?
A. Yes.
Q. Where were you living at that time?
A. With Antonio Enriquez.
Q. Were you an employee of the house of Antonio Enriquez?
A. Yes.
Q. What -as your employment there?
A. As a servant.
Q. Do you remember when Antonio Enriquez lived on Calle David?
A. Yes.
Q. Were you there employed as a servant?
A. Yes.

75 Q. Do you remember when Antonio Enriquez was taken sick before he left for Spain?
A. Yes.
Q. Where did Antonio Enriquez live when he was taken ill?
A. On Calle David.
Q. Do you know whether, shortly after he was taken ill, he was removed to some other place?
A. Three weeks after he was taken sick he was removed from Calle David to the Escolta.
Q. That house on the Escolta is the house now occupied by the English drugstore, is it not?
A. Yes.
Q. Were you in the house of Antonio Enriquez—I mean the house on the Escolta—until he left for Spain?
A. Yes.
Q. When Antonio Enriquez removed from the house on Calle David to the house on the Escolta, can you state whether he was able to walk by himself?

A. No, sir: In a carriage.
Q. Did he walk from his room to the carriage?
A. No.
Q. How was he taken from the room to the carriage?
A. They carried him on a chair.
Q. Who carried him.
A. Myself and another boy.
Q. During the illness of Antonio Enriquez on Calle David and before he removed to the Escolta, did you ever speak to him?
A. No.
Q. Do you know whether Antonio Enriquez could speak at that time?
76 A. No.
Q. Could Antonio Enriquez speak or not at that time?
A. He could not.
Q. During his illness on Calle David could Antonio Enriquez walk by himself?
A. No.
Q. Can you state whether Antonio Enriquez during his illness got up from his bed?
A. He could not get up.
Q. Who helped him to get up from the bed?
A. I.
Q. During his stay in the house on the Escolta, and prior to his departure for Spain, did you or did you not live in the house on the Escolta with Antonio Enriquez?
A. Yes.
Q. Did you see Antonio Enriquez every day?
—. ——.
Q. Who changed his clothes for him?
A. The girls.
Q. Did you perhaps help in changing his clothes?
A. I helped them, because he was unable to move his body.
Q. Do you know who was the personal servant of Antonio Enriquez until his departure for Spain?
A. The girls and myself.
Q. During the stay of Antonio Enriquez in the house on the Escolta, until the time of his departure for Spain, did you ever hear him speak?
A. No.
Q. Could Antonio Enriquez speak at that time?
A. He could not speak.
Q. Can you state to the court the manner in which he made himself understood?
77 A. By signs.
Q. With which hand.
A. With the left.
Q. While you were in the house of Antonio Enriquez on the Escolta, and during his illness, could he move from his bed?
A. He could not move; he required assistance.

Q. Could he sit up in bed without assistance?
A. No.
Q. Who helped him to sit up?
A. Myself and the girls.
Q. When Antonio Enriquez left for Spain, where did he take the launch that took him to the boat?
A. On the Escolta, Number fourteen.
Q. You mean on the river, back of the house?
A. Yes.
Q. When Antonio Enriquez went from his room to the launch, did he walk?
A. No.
Q. How did he go from his room to the launch?
A. They put him on a chair and carried him to the launch.
Q. Who carried him?
A. Myself and another boy.
Q. You say that during Don Antonio's illness you assisted him every day until he left for Spain?
A. Yes.
Q. Were you there during the night?
A. Yes.
Q. During all that time of Don Antonio's illness, from the time he was taken ill on Calle David until his departure for Spain, did you hear him speak in a manner that you could understand?
78 A. No.
Q. During all the time referred to in the previous question, did you ever see Don Antonio sit up in bed without assistance?
A. He could not sit up without assistance.
Q. During all that time to which you refer, could Don Antonio walk by himself?
A. No.
Q. During that time did you see Don Antonio change his position while in bed without anybody's assistance?
A. He could not turn himself over unassisted.
Q. Can you state whether you ever saw, at the house of Antonio Enriquez on Calle David or on the Escolta, Carmen de la Cavada, the wife of Francisco Enriquez?
A. No, sir.
Q. Do you know whether Doña Carmen de la Cavada, the wife of Francisco Enriquez, visited the house?
A. No.
Q. Did she or did she not visit the house?
A. No.
Q. Do you know the reason Doña Carmen de la Cavada, the wife of Francisco Enriquez, never visited the house of Antonio Enriquez?
A. I do not know.
Q. During the illness of Antonio Enriquez, did you ever see any person or persons coming to the house of Antonio Enriquez, or the latter sign any document?
A. No.
Q. Did you ever see any person during Don Antonio's illness read

any document to him or any person sign any document before him at his direction?

—. ——.

79 That is all.

Examination by Mr. CHICOTE:

Q. When did you enter the house of Antonio Enriquez as a servant?

A. I do not remember the month or the year.

Q. Was it prior to the earthquakes in Manila in the year 1880?

A. At the time of the earthquakes.

Q. Was it long before or long after?

A. Some four months afterwards I entered their house.

Q. At the time you entered the house as a servant, was Antonio Enriquez sick?

A. Not yet.

Q. How long after the earthquakes was Antonio Enriquez taken ill?

A. I do not remember how many years afterwards.

Q. At the time of the big typhoon that struck Manila, after the earthquakes in the year 1880, was Antonio Enriquez sick?

A. Not yet.

Q. At the time of the big cholera in Manila was Antonio Enriquez sick?

A. Not yet.

Q. How long after that typhoon was he taken ill.

A. Some four months after that.

Q. You mean after the typhoon?

A. Yes.

Q. Where was Antonio Enriquez taken sick?

A. On Calle David, Number four.

Q. How long was he sick there, on Calle David?

A. Three weeks; afterwards he was removed to the Escolta.

80 Q. Which of Antonio Enriquez' children lived with him on Calle David?

A. Tula, Nena, Concha, Antonio, Cayetano—that is all.

Q. What persons outside of the family visited Antonio Enriquez while he was sick on Calle David?

A. I did not see anybody.

Q. When he was removed to the Escolta, did you see any person, outside of the members of the family, talk to Antonio Enriquez?

A. I did not see anybody.

Q. Were you always by Don Antonio Enriquez' side?

A. Yes.

Q. Were you present the day Antonio Enriquez left for Spain?

A. Yes.

Q. Who, outside of the members of the family, were there on that day?

A. Nobody, except his children.

Q. Was Francisco Enriquez there on that day?

A. Yes.

Q. Was Francisco Enriquez' wife there?
A. No.
Q. After Antonio Enriquez left for Spain, where did you stay?
A. On the Escolta.
Q. With whom?
A. With Don Antonio.
Q. After Don Antonio left, where did you go?
A. I went to live with my friends in Trozo.
Q. What province are you from?
A. From Bisayas.
Q. From what Town?
A. From Surigao.
81 Q. How long have you been here in Manila?
A. Forty-five years.
Q. How did you come to Manila, and with whom?
A. I was very young. I used to travel with my friends, and that is how I came to Manila.
Q. Antonio Enriquez, during the time you saw him, day and night, was unable to speak, was he?
A. He was unable to speak.
Q. Did he not speak with the people that called on him or with his own children?
A. No.
Q. Did you ever see Antonio Enriquez walking along the corridor of his house?
A. No.
Q. When Antonio Enriquez was sick—I mean at the beginning of his sickness—where did the children play—inside or outside of Don Antonio's room?
A. The children were prohibited from playing.
Q. How old were they at that time?
A. They were very young?
Q. Did they go to school?
A. Not then.
Q. Was Antonio Enriquez in bed all the time?
A. Yes.
Q. Did he not go to his Office?
A. No.
Q. During that time that Antonio Enriquez was sick on the Escolta, did he go to his office?
A. No.
Q. Do you know whether during Antonio Enriquez' illness anybody visited him?
A. No, nobody.

82 Mr. CHICOTE: That is all.

Mr. MONTAGNE:

Q. Do you remember whether Don Antonio Enriquez at the beginning of his father's illness worked in some office during the day?
A. He did not work in any office.

Q. When the children of Antonio Enriquez left the house, do you know where they usually went?
A. No.
Q. Antonio Enriquez, when he left the house, did he not tell you where he was going?
A. No.
Q. When the girls left the house, do you know where they went?
A. No.
Q. When any person of the house went out, were you told where that person was going?
A. No.

83 PLAINTIFFS' EXHIBIT 5.

Testimony of Carmen Gonzalez de Badolato.

CARMEN GONZALES DE BADOLATO, residing in the District of Sampaloc, being first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. How long have you been in Manila.
A. I was born here.
Q. Were you in Manila in the years from 1882 to 1883?
A. Yes.
Q. Did you know Antonio Enriquez' family at that time.
A. I did.
Q. Did you know Antonio Enriquez y Sequera?
A. Yes.
Q. During the year 1882 did you ever visit Antonio Enriquez?
A. Two or three times, when he was taken ill.
Q. Do you remember when he was taken ill?
A. In October, 1882.
Q. Where was Antonio Enriquez living at that time?
A. On Calle David.
Q. Did you visit Antonio Enriquez during his illness.
A. Two or three times on Calle David during his illness.
Q. When you visited Antonio Enriquez on Calle David, did you speak to him.
A. I could not: He lost his speech, he was paralyzed; he could not speak.
Q. Did you ask him any questions?
A. Nobody could talk with him.
Q. Do you know whether Antonio Enriquez, when you saw him when he was ill, could walk without assistance?
A. He was in bed.
84 Q. Do you know whether he could move alone?
A. No: A servant and the girls had to help him to put on his clothes and to sit on a chair and sometimes in the bed.
Q. Did you hear Antonio Enriquez speak at any times that you went to visit him?
A. No.

Q. Do you know whether Antonio Enriquez continued to live on Calle David until he left for Spain?

A. Two or three times I went there after he was removed.

Q. Whither was he removed?

A. To the Escolta.

Q. During the time of Antonio's illness, did you visit him?

A. For about a month.

Q. After these visits during the month on Calle David, did you visit him again on the Escolta?

A. No. My husband used to go there almost every day, and he would tell me how he was getting along.

85 PLAINTIFFS' EXHIBIT 6.

Testimony of Agueda Esteban.

AGUEDA ESTEBAN, residing on Calle Poblete, and thirty-two years of age, being first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. How long have you lived in Manila?

A. I was born here.

Q. Have you lived here all the time?

A. Yes.

Q. Did you know the family of Antonio Enriquez?

A. Yes.

Q. Did you know Antonio Enriquez?

A. Yes, because my father and my mother belonged there and spent their time there.

Q. Did you say that your family lived with Antonio Enriquez?

A. Yes.

Q. Did you know the children of Antonio Enriquez?

A. Yes.

Q. Did you visit the house of Antonio Enriquez frequently before he left for Spain?

A. We were all there.

Q. Do you remember the time or the date on which Antonio Enriquez left for Spain?

A. Yes, we were there all the time, because Miss Concha was my friend and we were girls about eight years of age.

Q. Do you remember whether before Antonio*n* Enriquez left for Spain he was taken ill?

A. Yes.

86 Q. About what time was he taken ill?

A. I remember it when I was playing with Concha, and we were told that we could not play, because her father was sick.

Q. In what house were they living when he was taken sick?

A. On Calle David.

Q. Did he leave after he was taken sick and before he left for Spain?

A. No.

Q. Do you know whether he lived on the Escolta?

A. Yes, because one of the girls was my schoolmate, and her name was Concha.

Q. Where did Antonio Enriquez live before he left for Spain?

A. On the Escolta, in the house that is now occupied by the English drug store.

Q. Do you remember how long or about how long after Antonio Enriquez was taken sick that he remained in the house on Calle David before he removed to the Escolta?

A. I cannot say; I do not remember, but I think it was a short time—some three months, more or less; but I cannot remember exactly.

Q. Do you know about how long he lived on the Escolta before he left for Spain?

A. Some three months; I do not remember exactly.

Q. You said that you visited Antonio Enriquez during his illness, when he was living on Calle David and when he lived on the Escolta?

A. I was there every day. When I left the Escolta, I went to Antonio Enriquez' house on Calle David and slept with his
87 daughter, Concha, because she was a very good friend of mine and we were always playing together until the time of her father's death.

Q. During the time that you visited the house of Antonio Enriquez on Calle David, did you see him often.

A. Yes.

Q. Can you state whether during the time you visited Antonio Enriquez on Calle David, he could speak?

A. No.

Q. Could he or could he not speak?

A. He could not speak. The day he was taken sick I was over there in the morning, and the brothers told me, "Father is sick," and that is the reason why I went there every day until he left for Spain; and I went to the dock to say good-bye to Concha.

Q. During the time you visited Antonio Enriquez on Calle David, do you know whether he could speak?

A. No.

Q. Do you mean to say that you do not know, or that he could not speak?

A. That he could not speak.

Q. Could he walk alone?

A. No.

Q. Could he move?

A. No. He had to be assisted by the girls or by the servants.

Q. During the time you visited Antonion Enriquez on the Escolta until the time of his departure for Spain, on the Escolta, did you visit him frequently?

A. I was there; I used to go into the room, and sometimes I carried cups for him to drink from.

Q. You went there every day?

—. —.

88 Q. And did you ever sleep at the house on the Escolta, where the English Drug Store is at present?

A. Yes, because on Thursdays, Saturdays and Sundays, when the school was closed, I used to spend the night with them.

Q. During the time that you visited the house of Antonio Enriquez on the Escolta, did you see him every day?

A. Yes; I had to say, "How are you" every day.

Q. Did you ever hear Antonio Enriquez speak?

A. No.

Q. Do you know whether he could or could not speak?

A. He could not speak; on account of his illness, he was very weak.

Q. Could he walk alone?

A. No.

Q. Could he move at all?

A. No, he could not move on account of his illness, he was assisted by his daughters.

Q. Were you present when he was removed from Calle David to the Escolta?

A. Yes, I was in company with Miss Concha.

Q. How was Antonio Enriquez taken out of the house on Calle David when he was removed to the Escolta?

A. He was taken by the servants on a chair and took in a carriage, and the servants took him in that carriage to Escolta, put him on the chair again and carried him upstairs.

Q. Were you present on the Escolta when he left the Islands?

A. You mean Antonion Enriquez for Spain?

Q. Yes. How was he put aboard?

A. They took him down the steps. On the right of the
89 steps there was a room in which Don Antonio Enriquez was lying, and he was taken from that place to the first entrance to the steps on the left going into the room, and from there was taken directly to the boat.

Q. You mean on the river, near the house?

A. Yes.

Q. You mean to say that there was a sort of a landing place by the door and that he was taken to that place?

A. Yes.

Q. Do you know whether he walked alone?

A. No, he was taken down on a chair.

Q. Did you ever see, during his illness and during his stay there on Calle David or on the Escolta—did you ever see Antonio Enriquez move alone while in bed?

A. He could not move without assistance.

Q. Do you know whether he had somebody to help?

A. Yes.

Q. Who?

A. The children, sometimes the servants.

Q. Did you observe during the time you visited those two houses the manner in which Antonio Enriquez ate?

A. Yes.

Q. How did he?

A. The girls would feed him with a spoon.

90 Q. Do you know whether he could hold the spoon with his own hand?

A. No, the girls had to hold it for him.

Q. Did you ever see, during Antonio Enriquez' illness, that he ever made use of his hands to eat with?

A. No.

Q. Did you ever see, during the illness of Antonio Enriquez, either on Calle David or on the Escolta, any person or persons call on him and ask him to read or write or sign any document?

A. I did not see any.

Q. Do you know the wife of Francisco Enriquez?

A. Yes.

Q. Carmen de la Cacada?

A. Yes, because my brother was employed in her house, and when my brother left there—because he was sick—he went back to the house in order to speak to Don Francisco's wife, but he was told to get out, and then * * *

Q. During the illness of Antonio Enriquez, on Calle David or on the Escolta, did you ever see the wife of Francisco Enriquez in that house?

A. No.

Q. Did you see the wife of Francisco Enriquez in the house of Antonio Enriquez when the latter left for Spain?

A. No, she was not there.

Q. On any occasion, or during the time you visited Antonio Enriquez, either on the Escolta or on Calle David, did you see Francisco Enriquez' wife there?

A. No; since I was very young—about eight years old—up to that time I never saw her there.

Q. Do you know the reason why she did not visit the

91 house of Antonio Enriquez,—I mean the wife of Francisco Enriquez?

A. No.

Q. That is all.

Cross-examination by Mr. CHICOTE:

The witness has testified as to the state of illness of Antonio Enriquez, in criminal cause 21 against Francisco Enriquez, for making a false statement in a public instrument, and I want to ask the witness whether she gave that testimony about the middle of the year 1901.

Mr. MONTAGNE: I object to the reading of any testimony given by the witness in a previous action.

The COURT: It is proper: Counsel has the right to read the questions to the witness, and the witness must explain whether or not, if she deems it necessary.

(Mr. Chicote reads the testimony of the witness from the record of Case No. 21 against Francisco Enriquez, instituted in the court of

first instance of the District of Binondo, for making a false statement in a public instrument, which said testimony thus read by Mr. Chicote appears on Pages 38, 39 and 10 of the said record).

Mr. CHICOTE:

Q. Did you give the testimony which I have just read to you?
A. Yes.
Q. Why did you go to the house of Antonio Enriquez—what was your object?
A. Because I had to go there every day, and because my father any my mother were there every day, in connection with the old theatre, and they left me there.

92 Q. Your father and your mother were the persons who told him everything that happened at the old theatre, were they?

A. Before his illness, my father would observe everything that happened at the old theatre and tell Antonio Enriquez about it.
Q. How old were you at that time?
A. Eight or nine years old.
Q. Did you ever go to the house of Antonio Enriquez for the purpose of speaking to him in regard to the conduct of Francisco Enriquez in ejecting you from the old theatre?
A. No.
Q. Did not Antonio Enriquez ever criticize the acts of Francisco Enriquez?
A. No, because at that time he was very weak.
Q. Do you remember whether, during the time referred to by you, anybody talked with Antonio Enriquez?
A. No.
Q. Did you see anybody speak with him?
A. No.
Q. Did you see anybody visit Antonio Enriquez and speak to him?
A. They would speak to him, but he could not answer.
Q. Were you near the visitors?
A. Yes, sometimes I was near the bed, helping Don Antonio to drink his soup out of a cup.
Q. Do you remember the persons who used to visit Antonio Enriquez at that time?
A. Yes.
Q. Who were they?
A. Carmen Badolato.
Q. Who else?
A. I do not remember.

93 Q. Did many friends go there to visit him?
A. I only saw one or two.

Q. You say that you were constantly by the side of Antonio Enriquez?
A. Yes, sometimes, but not all the time.
Q. At what time would you usually be by the side of Antonio Enriquez or near to him?

A. At meal-time, because I was always there with my friend Concha, playing with her.
Q. You mean to say that you were there every day?
A. Yes, I would go there every day.
Q. What would you generally do when you went there?
A. Nothing.
Q. Did you not say "Good morning"?
A. Yes. I would say "Good day" or "Good afternoon," and when I would go there in the evening I would say "Good evening."
Q. Do you remember where you were born?
A. Not now, but I can get a certificate of baptism.

Mr. MONTAGNE: I object to the question, because the witness was so young then that she could not remember.

Q. Have you got that certificate of baptism at your house?
A. Yes, it is in Binondo.
Q. Can you bring it this afternoon?
A. No, it is with the parish priest of Binondo. I can get it, though.
Q. What is your name?
A. Agueda Esteban, at your service.
Q. Have you not any other name besides Agueda Esteban?
A. No.
Q. Is not your name Agueda Esteban Barroga?
A. Yes.
94 Q. Do you remember your parents having told you that you were born in front of the old theatre?
A. Yes, because my father and my mother used to live at that place, and there is where my mother gave birth to me.
Q. Do you know who are your god-parents?
A. They are dead now.
Q. Do you know their names?
A. I think his name was Juan.
Q. Did you know him?
A. He was an Englishman.
Q. What is your father's name?
A. Ambrosio.
Q. What is your mother's name?
A. Francisco de la Cruz.
Q. Then your name is Agueda Esteban de la Cruz, is it not?
A. I only know that my name is Agueda Esteban—that is all I know.
Q. And where does the name Barroga come from?
A. That is my lover's name.
Q. Then your name is Agueda Esteban, is it not?
A. Yes, but my husband's name is Barroga, and I have that name too.

Mr. MONTAGNE: I object to the stenographer taking down the word "lover," because the witness did not say that her lover's name was Barroga, but that it was her husband's name.

(The stenographer remarks that he understood the witness to say "lover" and he so put it down.)

Mr. CHICOTE:

Q. Is "Barroga" your lover's or your husband's name?
A. My husband's name.
Q. Are you married?
95 A. No, sir.

(The stenographer remarked: "Then it is 'lover' and not 'husband'.")

Mr. CHICOTE:

Q. Your name is de la Cruz, is it not?
A. Yes.
Q. So that your name is Agueda Esteban de la Cruz, is it not?
A. Yes, and "Barroga" on my husband's side.

(Mr. Chicote asked the Court to strike from the record all that part of the previous testimony given by the witness in Case No. 21.)

The COURT: Mr. Chicote can read the questions, and the witness can explain them.

Mr. CHICOTE:

Q. Do you remember whether you ever appeared in the court of first instance of Binondo as a witness in a criminal case against Francisco Enriquez?

A. Yes—and I remember that you were the lawyer that asked me the questions.

Q. Do you remember having stated at that time that Francisco Enriquez ejected you from the old theatre, after Don Antonio Enriquez left for Spain?

A. Yes. When the old man was no longer there Don Francisco ejected us,—when he left for Spain; and when he was sick I went there with my father and my mother to beseech him to let us continue in the house, because we did not want to go; but he was so sick he could not speak.

Q. Do you remember whether the judge told you at that time that your answer was not responsive to the question, and that he asked you whether you appealed to Antonio Enriquez from the decision of Francisco Enriquez, and that you said "Yes, sir, I went
96 to him, but he could not answer, because he was unable to speak?"

A. Yes, I testified in Spanish. Sometimes I am unable to understand those arithmetical politics,—because that is nothing more than arithmetical politics.

Q. Do you remember having testified at that time as follows:

"Yes, sir, I approached him, but he could not answer, because he was unable to speak."?

A. My mother wished to speak to him. She wanted to beseech Antonio Enriquez, but the latter was unable to speak.

Q. Then it was your mother who spoke, and not you?

A. No, my mother did, but I accompanied my mother.

Q. You were then asked whether Francisco Enriquez ejected you from the old theatre before or after the death of his father.

Mr. MONTAGNE: I object to the question, it not being a proper cross-examination and no foundation having been laid for its answer.

The COURT: The witness may answer.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q. Do you remember whether the Prosecuting Attorney asked you that question?

A. When Don Francisco Enriquez was here I wanted to plead with him, but Don Antonio was unable to speak; and that is what I told Judge Memije; and as I have always told the truth that is what I then told the judge. I do not remember now, because those are matters of arithmetical politics.

Q. Did you not testify at that time that you were twenty-
97 nine years of age?

A. I do not remember when I was born. You yourself asked me the question. The judge asked me whether I was twenty-nine or twenty-seven years old, but I do not remember what I told him then—so many years have elapsed. I do not remember. I am twenty-seven or twenty-eight years of age.

Q. Do you not remember having testified then that you had called on Antonio Enriquez on the Escolta?

Mr. MONTAGNE: I object to the question, not being proper cross-examination.

The COURT: She must answer.

A. Yes, I did testify to that effect.

Q. Do you remember having been asked then on what date you spoke to Don Antonio Enriquez, and that you answered, "In the year 1882"?

Mr. MONTAGNE: I object to the question, for the same reason.

(The objection was overruled.)

Mr. MONTAGNE: Exception.

A. Yes.

Mr. CHICOTE:

Q. Do you remember my having asked you in what year you were ejected by Antonio Enriquez, and that you answered, "In the year 1882; I do not remember the month; if I told you the month I would tell you a lie. I always tell the truth." Did you not say that?

Mr. MONTAGNE: I object to the question, on the ground that it is not proper cross-examination and is incompetent.

98 The COURT: The witness must answer.

Mr. MONTAGNE: Exception.

A. I do not remember if I said that, or not.

Q. I then asked you in what house you used to play with the daughter of Antonio Enriquez, and you answered "On Calle David",—did you not say that?

A. I do not remember.

Q. I also asked you then, "Did you play in the same room where the patient was?" and you answered, "In the hallway": did you not say that?

A. I do not remember.

99 PLAINTIFF'- EX. F.

Testimony of Rufina Bernaldo.

Having been duly sworn according to law, testified that her name was RUFINA BERNALDO, residing on Calle Dulumbayan.

Questions by Mr. MONTAGNE:

Q. How old are you?

A. I am 50 years of age.

Q. How long have you lived in Manila?

A. I have been here a long time; since 1863, when that big earthquake destroyed the town of San Pedro.

Q. Did you live in Manila in the year 1882? and subsequent years?

A. Yes, since I came to Manila I have never left the city.

Q. Did you know Antonio Enriquez y Sequera?

A. Yes, because my husband was his coachman.

Q. Did you know Antonia Enriquez before he went to Spain?

A. I knew him when he was sick on Calle David.

Q. Did you know him at the time he was taken ill?

A. Yes.

Q. Did you use to go to the house of Antonio Enriquez on Calle David, where you say he was taken ill?

A. Yes, on Calle David.

Q. Do you know why Antonio Enriquez went to Spain?

A. I don't remember because I was taken sick myself and was unable to go to his house because he was on the Escolta.

Q. Do you know where Antonio Enriquez lived at the time he went to Spain?

A. Yes, he was living on the Escolta.

Q. Was that house on the Escolta the one that is now occupied by the English Drug Store?

A. Yes.

Q. Do you know about when Antonio Enriquez was taken ill on Calle David?

A. I don't remember either the month or the day; it was
100 a few days thereafter that he was taken to the Escolta.

Q. A few days after what?

A. I mean to say that a few days after he was taken sick on Calle David he was removed to the Escolta.

Q. Did you go to see Antonio Enriquez during his illness on Calle David?

A. Yes, I did.

Q. Did you visit Antonio Enriquez while he was sick on the Escolta?

A. I did.

Q. How often did you go to the house of Antonio Enriquez?

A. I cannot state exactly how many times, sometimes I would go every day and sometimes every other day.

Q. After Antonio Enriquez was removed from where he lived to the Escolta, do you know whether he lived in any other house until he went to Spain?

A. No, he did not leave the Escolta.

Q. After he was removed from Calle David, was he taken back to Calle David?

A. No.

Q. Do you know whether he was taken back or not?

A. He was not taken back to Calle David, he remained on the Escolta.

Q. And he stayed there until he went to Spain?

A. When he went to Spain I did not go to the house because I was sick myself.

Q. After Antonio Enriquez was taken ill and the times you called on him on Calle David and on the Escolta, did you see him?

A. Yes.

Q. During the visits to Antonio Enriquez when he was ill, did you ever speak to him?

101 A. I used to say good morning to him but he never answered.

Q. Did you ever see Antonio Enriquez, during the visits to both houses during his illness, talk with anyone?

A. He could not speak.

Q. Did you during your visits ever see Antonio Enriquez during his illness, in either house, walking alone?

A. He could not walk, he could not move from his bed.

Q. Do you know whether Antonio Enriquez could move from his bed without assistance?

A. He could not get up alone.

Q. Did you ever see Antonio Enriquez move alone during his illness during any of your visits on Calle David? And the Escolta?

A. He could not get up alone.

Q. Did you ever see Antonio Enriquez get up?

A. No.

Q. During any of your visits to Antonio Enriquez and during his illness did you ever hear him speak with his own mouth?

A. I never heard him speak.

Q. When you spoke to Antonio Enriquez during his illness, did he answer you?

A. No.

Q. Do you know how Antonio Enriquez ate his meals?
A. The girls fed him with a spoon.
Q. Did you ever see Antonio Enriquez eat with his own hands?
A. No.
Q. During any of your visits to Antonio Enriquez and during his illness, whether *or* Calle David or on the Escolta, did you ever see any person or persons approach him for the purpose of reading, writing or signing documents?
A. No.
102 Q. Did you, during your visits to Antonio Enriquez, either on Calle David or on the Escolta, ever see the wife of Francisco Enriquez, Carmen Cavada?
A. She did not go there. I never saw here there.
Q. Do you know Carmen Cavada, the wife of Francisco Enriquez?
A. Yes.
Q. Do you know the reason why Carmen Cavada never visited the house of Antonio Enriquez?
A. I simply heard the Spaniards say that she never went there.
Q. That's all.

Questions by Mr. CHICOTE:

Q. When did your husband enter the service of Antonio Enriquez as a driver?
A. When I married him he was already his driver.
Q. When were you married to him?
A. I cannot state the year or date.
Q. Was it at the time of the earthquake of 1880? Were you married then?
A. When the churches fell down I was too young.
Q. Have you any recollection of the earthquakes which preceded the cholera and the typhoon?
A. I don't remember the year.
Q. Were you here in 1882 and 1883?
A. I have been here since the Cathedral and the church of the Jesuit Fathers fell down.
Q. Where were you married?
A. We were married in Binondo.
Q. When.
A. I do not know.
Q. Who was the commanding general at the time?
103 A. I do not remember who was the commanding general at that time?
Q. Who was the parish priest of the district at the time you were married?
A. One who has been a bishop.
Q. Was he Father Hevia?
A. I do not remember the name of the priest but the name of the fiscal was Angel.
Q. At the time of the big cholera here in Manila were you already married?

Mr. MONTAGNE: I object to the question as immaterial and irrelevant and no foundation has been laid therefor.

The COURT: The question is proper. Let the witness answer.

Mr. MONTAGNE: Exception.

A. I don't think I was married then, I don't remember the time of the cholera epidemic, I don't know whether I was married.

Q. Were you married when the big typhoon struck the city of Manila?

Mr. MONTAGNE: I object to the question because there is no law which says when the typhoon occurred.

Mr. Chicote then said that whoever had read the papers or some history of the city of Manila knew that there was a big cholera epidemic and a big typhoon in Manila during that year and that his idea was to refresh the mind of the witness, that she might fix the date of the marriage.

The COURT: The witness must answer.

Mr. MONTAGNE: Exception.

A. We were not married yet.

Q. Can the witness state how long after that cholera and typhoon she was married?

104 A. I do not remember.

Q. Was it long or soon after that?

A. Long after.

Q. Did you know Antonio Enriquez before you married his driver?

A. Yes.

Q. Did you visit the house of Antonio Enriquez before you were married to the driver?

A. My uncle used to work for him and my aunt's husband lived on the theatre street.

Q. State whether or not you used to visit Antonio Enriquez before you were married to the driver.

A. Yes.

Q. In what house did you visit him?

A. On Calle David.

Q. For what purpose did you visit him, sometimes every day and sometimes every other day?

A. I visited him to know whether he was ill or well.

Q. What did you do during your visit, how did you make your visit to him?

A. Nothing, I simply went there to visit him.

Q. How long did you remain near Antonio Enriquez during your visits?

A. I went near him and after speaking to the girls and saluting him I went away.

Q. During your visits to the house of Antonio Enriquez did you ever see any stranger by his side?

A. I never saw any.

Q. Did you ever see any person speak to Don Francisco, and the latter stammer in reply, like bla, bla, glo, glo, lra?

A. I have not seen anything. He could not speak either.

105 Q. Can you tell me how long before Antonio Enriquez went to Spain you were taken sick?

A. A few days after he moved to the Escolta, I was taken sick and was unable to go to see him.

Q. When Antonio Enriquez went to Spain did you go to say goodbye to him or were you still sick?

A. I was still sick.

Q. How long after Antonio Enriquez was taken sick was he removed from Calle David to the Escolta?

A. I cannot say how many days. I can only say that when I was taken sick Antonio Enriquez had already gone.

Q. When you visited the house of Antonio Enriquez did you go near him or did you simply stay with your husband?

A. I used to wait on the girls.

Q. But did you ever go near Antonio Enriquez?

A. Yes.

Q. At what time did you use to go near Antonio Enriquez while waiting on the girls?

A. About 4 o'clock in the afternoon.

Q. Did you ever see Francisco Enriquez at the house of Antonio Enriquez?

A. He used to go there.

Q. What was the food that was fed to Antonio Enriquez with a spoon?

A. The girls used to give him broth.

Q. Didn't you ever see them give him anything else?

A. All that I saw the girls give him was broth.

Q. Were you ever present in the house of Antonio Enriquez at supper time?

106 A. I did not go there in the evening.

Q. That's all.

Mr. MONTAGNE:

Q. Did you ever visit Antonio Enriquez in the forenoon?

A. No.

Q. Did you ever stay overnight in the house of Antonio Enriquez?

A. I never stayed there overnight.

Q. That's all.

107 PLAINTIFFS' EXHIBIT 8.

Testimony of Antonio Enriquez.

Having been duly sworn according to law, testified that his name was Antonio Enriquez y Villanueva.

Questions by Mr. MONTAGNE:

Q. Are you one of the sons of Antonio Enriquez y Sequera?

A. Yes sir.

Q. Are you one of the plaintiffs in this suit?
A. Yes.
Q. Do you know Francisco Enriquez?
A. Yes.
Q. Where did you live in the years 1882, 1883 and 1884?
A. With my father.
Q. In the year 1882 and during part of 1883, did you live in Manila?
A. Yes.
Q. Please state your age.
A. 38 years.
Q. Do you remember the circumstances of the last illness of your father in Manila?
A. Yes.
Q. Where were you living at that time?
—. With my father.
Q. In what house?
—. In the house on Calle David.
Q. Do you remember when your father was taken ill?
A. Yes.
Q. Were you then living with your father?
A. Yes.
Q. How old were you at that time?
A. 17 or 18 years of age.
Q. Were you at the time your father was first taken ill employed in any place in Manila?
A. Yes, with the firm of Martin Bais.
Q. Can you state approximately the date on which your father was taken ill?
A. In the year 1882, about the month of October, and while living on Calle David.
108 Q. How long did you remain in the house on Calle David after your father was taken ill.
A. A very short time, about a month.
Q. It was at the expiration of that month that you say that your father was removed to another place?
A. Yes, he was removed to the house on the Escolta where we remained until we went to Spain.
Q. You mean the building now occupied by the English Drug Store?
A. Yes.
Q. Did you remain on the Escolta until his departure for Spain?
A. Yes sir.
Q. Do you remember when you left for Spain?
A. Yes.
Q. Did you go to Spain with him?
A. Yes, during his illness I attended to him.
Q. Who else went to Spain with your father?
A. My sisters Carmen, Gertrudes, Trinidad, Concha and myself.
Q. Did your brother Francisco accompany your father?
A. No.

Q. Do you remember approximately the date on which your father left for Spain?

A. On the first of April, 1883, arriving in Spain on the 9th of May, 1883, 39 days on the voyage.

Q. When your father was first taken ill on Calle David, did you continue to work for Martin Dais?

A. Yes, when we moved to the Escolta I had to resign because I could not go to the office and look after my father at the same time. After attending to my father day and night I could not also go to the office and for this reason I had to resign my position, and further because we had decided to go to Spain.

Q. While your father was on the Escolta, did you see him constantly?

A. I was constantly with him. I saw him constantly. I
109 was the one who took care of him.

Q. During the time he was in Calle David and before he was removed to the Escolta, did your father at any time speak to you?

A. He could not speak to me because he could not answer my questions. It was impossible for him to do so. He was entirely deprived of his speech. He was just like a statue. We had to guess at what he wanted by looking at him. As he was unable to speak we had to make very strenuous efforts to understand and guess what he wanted.

Q. While your father lived on Calle David, as well as on the Escolta, and during his illness, did you ever see him walking alone.

A. No.

Q. Do you know whether your father was unable to get out of bed?

A. He was unable to get out of bed alone. We had to help him, even more we had to be by his side constantly every day. We had to give him a physic every day because he was not out of danger and every day we had to give him a physic of some mineral water so that on the Escolta, as well as on Calle David, he being unable to use one half of his body, we had to take special care of him. If we did not take good care of him after the physic he was apt to have a congestion.

Q. It was after this that he was removed from Calle David to the Escolta, was it?

A. Yes.

Q. Were you present when he was removed?

A. Yes.

Q. Do you know how he was removed to the Escolta?

A. He had to be carried in arms.

Q. Did he go alone?

A. No.

Q. Do you know Pascual Reyes?

110 A. Yes, he was our servant and is still with us.

Q. Did you see your father every day while on the Escolta until he left for Spain?

A. Yes, with the exception of the time I was in the office.

Q. How long before your father left for Spain did you resign your position?

A. Two months before.

Q. Then you were with your father constantly for two months before he left for Spain?

A. I was the only man in the house who could take care of him, because although my brother Cayatano was there, he being an army officer could not be with him all the time.

Q. Is he one of the plaintiffs in *tiss* action?

A. Yes.

Q. While you were on the Escolta, can you state whether you were constantly with your father?

A. Yes.

Q. Were you there every night?

A. Yes, I was with him every night and I was constantly by his side, holding his arm and at the least movement I would wake up and had to be on the lookout because he could not help himself, call anybody or do anything at all.

Q. Did you do that every night?

A. Yes.

Q. While your father was on the Escolta and until his departure for Spain did you ever see him move alone?

A. No.

Q. Do you know whether he could move out of bed unassisted?

A. Yes.

Q. Did you have to help him to sit up in bed?

A. He could not move alone. As he was on the edge of the bed, if he wanted anything I had to get hold of him and move him around as one who carries a heavy weight and then guess at what he wanted. He was absolutely helpless and could not move unless he was assisted by some one.

Q. While your father was on the Escolta did you ever hear him speak?

111 A. No.

Q. Can you state to the court the manner in which he attempted to speak?

A. When he wanted to speak he was unable to do so. He stammered like this "un di i ion." Sometimes he called me by signs and I had to guess what he wanted.

Q. Do you know whether he could move his right hand?

A. No, he could move his left arm and leg but was very weak.

Q. Were you with your father when he died?

A. No.

Q. Where did he die?

A. In Madrid.

Q. Can you state the date on which your father died?

A. I think it was in 1884 or 1885. I rather think it was in 1884.

Q. That is, the year after he left Manila?

A. Yes.

Q. During the time you and your father lived on the Escolta and on Calle David, during his illness, at any time of the day or night,

did you see any person or persons read, dictate to him or ask him to sign any document?

A. No.

Q. Do you know Carmen de la Cavada de Enriquez?

A. Yes.

Q. Do you remember whether during your father's illness, either on Calle David or on the Escolta, during your permanence here in Manila, *Carmen de la* Carmen de la Cavada went to your father's house?

A. No.

Q. Do you know a man by the name of Miguel Torres?

A. No.

Q. Did you know a man by the name of Zoboli?

A. Neither.

Q. From the time your father was removed from Calle David to the Escolta and until the time of his departure for Spain, do you remember whether he was removed to any house other than that on the Escolta?

A. No.

112 Q. Did he always live on the Escolta?

A. Yes, until he left for Spain.

Q. Did he ever go out of the house on the Escolta?

A. I don't remember, no sir.

Mr. MONTAGNE: That's all.

It is admitted by both attorneys Chicote and Montagne that the house on the Escolta belonged to Antonio Enriquez formerly and now belongs to his estate.

Questions by Mr. CHICOTE.

Mr. CHICOTE: To contradict the veracity of the witness, I am going to read to him part of the testimony given by him on the 25th of April, 1901.

Mr. MONTAGNE: I object to the reading of that testimony as improper and unnecessary. To impeach the veracity of the witness counsel for plaintiff can cross examine him but he can not base his attack upon the veracity of the witness upon testimony formerly given by him. I therefore object to the reading of the said testimony.

The COURT: Mr. Chicote has a right to read the testimony formerly given by the witness and then ask him whether that testimony is true and the witness also has a right to explain his previous statement.

Mr. Chicote then read the testimony given by the witness in case No. 21 instituted against Francisco Enriquez in the Court of First Instance of the District of Binondo for making a false statement in a public instrument, appearing on pages 17 to 23 of the record of the said case.

Mr. CHICOTE to the witness:

Q. Do you remember having given the testimony I have just read to you?

A. Yes.

113 Q. Explain all that I have read to you.

A. The explanation of this testimony is that when I testified in that case I was unable to state specifically the time I did not go to the office. I was unable to say specifically since when I had not gone to the office.

Q. You also testified that you were employed with Mr. Martin Dias, and that you worked from eight o'clock in the morning until twelve at noon and from one or two in the afternoon until five in the evening.

A. Undoubtedly I did not see anybody in the house while I was there, because I was in the office.

Q. Did you look after your father all the time while he was on Calle David?

A. With the exception of the time that I spent in the office, yes.

Q. Who used to look after him?

A. The whole family, who were there and lived with him.

Q. Did any stranger visit your father's house during his illness?

A. I do not remember having seen anybody.

Q. Do you remember having seen at your father's house your uncle, Manuel Enriquez?

A. I do not remember, but it is probable that he went there.

Q. Do you remember having seen Luis Quintos at the house on Calle David?

A. Yes.

Q. Do you remember whether during your father's stay on the Escolta he was visited by persons outside of the family?

A. If any strangers visited him I do not remember who they were.

114 Q. Do you remember whether he was ever visited by Mrs. Carmen Gonzales de Azola?

A. Yes, I do.

Q. Do you remember whether Luis Quintos ever went to the house?

A. I do remember, but I think it was while my father lived on Calle David, but not on the Escolta.

Q. Do you remember whether, at any time, and during your father's illness, Luis Quintos had any conversation with him?

A. I do not remember, but it is very probable that he did have such conversation with my father.

Q. Could your father speak Tagalog?

A. No.

Q. The servant that you then had, Pascual Reyes, could he speak Spanish?

A. He understood Spanish.

Q. Could he speak Spanish?

A. I cannot tell you; he spoke Tagalog; I remember that Pascual Reyes was an assistant.

Q. Assistant cook?

A. He was everything; he was assistant cook, servant, and, finally, waited on my father.

Q. Is that the servant who constantly waited on your father and who turned him over and sat him up in bed? Was he the confidential servant who took care of the patient?

A. We had him for that purpose—to take care of my father.

Q. And was he the one who took care of him?

A. He was one of those who took care of him.

Q. In addition to the servants, did anybody else take care of him?

A. Yes, the whole family; my brothers, and all the servants.

115 Q. Do you remember any other person of the household who looked after your father?

A. We all looked after him, and all the servants did, too.

Q. Do you remember who was your father's cook at that time?

A. I do not.

Q. Do you remember the name of any other servant employed by you for the same purpose?

A. We had so many that I can not remember them.

Q. Do you not remember the name of any other servant?

A. No.

Q. You only remember Pascual, do you not?

A. He was one of the servants.

Q. Was he used about the kitchen?

A. Yes, but later used to look after my father, and was always about the room in case anything was needed.

Q. No strangers then looked after your father?

A. Nobody, outside of the family, constantly looked after my father.

Q. Were they strangers, or were they members of the family?

A. They were all members of the family.

Q. Did any strangers go there frequently?

A. Some of my father's friends occasionally came to see him.

Q. Do you remember who they were?

A. There were so many interested in the health of my father that I just simply appreciated their visit, and that is all.

116 Q. Do you remember the persons who went to see your father off when he went to Spain, and were they all members of the family?

A. Many members of the family went to see him off, but I do not remember who they were, because I was constantly looking after my father.

Q. Did any person outside of the family go to see him off?

A. I remember that there were many members of the family and persons outside of the family who went to see him, but I do not remember who they were.

Q. Did you say that you accompanied your father on his trip to Spain?

A. Yes.

Q. Before undertaking the voyage, and while your father was ill, did he not improve at all—was he always in the same condition?

A. The doctors said that he was improving. The doctors sometimes said that the paralysis was improving, but according to my opinion he was always the same, notwithstanding that the doctors always claimed that he was out of danger but that nevertheless he might have cerebral congestion. During the trip I continuously give him mineral water to drink.

Q. Please state whether or not there was any improvement?

A. An almost insignificant improvement.

Q. Do you think that he had lost all his sensitiveness?

A. He had no sensitiveness on the whole of the right side.

Q. Do you think that he had lost all his intelligence and memory?

117 A. All that I can say was that he was unable to speak and could not say even a word. Sometimes he would express by signs what he wanted but he could not make any movement at all, and we had to guess what he desired.

Q. Was he in that same condition from the beginning of his illness to the time of his departure for Spain?

A. No, because at the beginning of his illness he could not make any movement and could not speak even a word. He could not even recognize people, and all that he could do was to stammer.

Q. Could he understand what was said to him?

A. I am unable to say.

Q. Did you gather from his signs and motions that he understood what was said to him?

Mr. MONTAGNE: I object to the question, because the witness is not a doctor, and further because it calls for the opinion of the witness.

The COURT: The witness can state whether he understood the signs, but can not give his own opinion.

Q. When you spoke to your father, did he understand what you said to him?

A. I did not speak to my father, but through the eyes I attempted to guess what he wanted. Sometimes I would go near him and he would attempt to speak, but was unable to do so. Whether there was any improvement in his illness, only a doctor could tell. To my mind his condition was always the same until the time that he went to Spain. He was in such a condition that we expected every minute that he would be overtaken by a shock.

118 Q. By the movement of his eyes and his hand you were able to understand what he wanted to say, were you not?

A. I had to make an effort to understand what he meant.

Q. But you did understand some of the things that he said to you?

A. Yes, but I do not know that it was not by accident.

Q. Did you notice whether he could remember those things that interested him the most?

A. I was constantly with him, and sometimes when asked for something I gave him one thing and then another, until I finally found what he wanted and then gave it to him.

Q. Do you think that he could remember things?

A. Sometimes he did, at other times he did not.

Q. But sometimes he made himself understood did he not?

A. Yes, that is to say, upon a call of nature we probably understood what he wanted, but sometimes we had to show him this and that until we finally got what he wanted.

Q. Did you speak to your father?

A. Yes, I did.

Q. Did you speak with him?

A. I used to ask him by signs whether he wanted to urinate or what.

Q. You did not speak to him then, but you simply made signs to him?

A. I made signs to him, and asked him whether he wanted this or that.

Q. Why did you speak to him then if you knew that he could not understand you?

119 A. I spoke to him, but could not keep up a conversation with him. However, it was evident that he understood what was said, because sometimes he would refuse to talk if he had nothing to say.

Q. Do you remember having ever seen Carmen Gonzales, either on Calle David or on the Escolta?

A. Yes.

Q. Did she see your father when she went there?

A. I can not say, because I simply saw the visitors and never talked to them.

Q. You mean to say that you can not state the names of the strangers who went to see your father?

A. I never paid attention to visitors.

Q. Then you are not able to describe any of the strangers who visited the family and can not say whether they talked to your father or not?

A. I do not remember. **No, sir.**

Q. Do you mean to say that when your father wanted anything upon a call of nature, you could give him what he wanted?

A. (No answer.)

Q. Was your father's condition the same during the whole trip?

A. Yes.

Q. And during his stay in Spain?

A. During his stay in Spain I do not know why I was separated from him.

Q. How long were you with him in Spain?

A. About a year.

120 Q. Were you constantly with him?

A. Constantly with him.

Q. And during that year his condition was the same as in Manila, was it not?

A. Yes, sir.

Q. How was your father removed to the house on the Escolta?

A. By two servants, who took him in a chair to the carriage and

then to the Escolta, where he was again taken in arms and carried upstairs.

Q. Who was in the carriage with him?

A. I do not know.

Q. Did you go with him?

A. No, my brothers went with him.

Q. Do you know whether at any time and during your father's illness he ever went out driving on the Luneta?

A. I do not remember.

Q. Do you remember whether your sisters used to go out driving with your father?

A. My brothers went out.

Q. With your father?

A. With my father, I do not remember.

Q. How did your father get into the house on the Escolta?

A. He did not get in: He was taken in.

Q. Who took him upstairs?

A. The servants, who carried him in a chair.

Q. Were you present at that time?

A. I was not present, for I remained on Calle David; but I arrived there a few months later.

121 Q. Then you did not see what happened?

A. I know it, because my brothers told me.

Q. Was there any reason for your father's being removed from Calle David to the Escolta?

A. My brothers said that it would be better to take him to the Escolta, because the house on Calle David would have a bad impression on him when he recovered his normal condition; and they wanted to distract his attention from that house. That was the reason why he was taken to the Escolta.

Q. When your father was taken to the Escolta, did you already know that he was going to leave for Spain?

A. They were considering the matter of his going to Spain, because he being in such a condition, not improving at all, the only thing to do was to send him to Spain, where he might recover.

Q. Do you know that your mother died in the month of July, 1882, a few months before your father was taken ill?

A. Yes she died in that month, but this was several months before my father was taken ill.

Q. Do you know that the reason for your father's removal to the Escolta was that he was occupying the same room in which your mother died on Calle David?

A. All that I can remember is that he was not in the same room where my mother died; he was in another room.

Q. Do you not think, or do you not remember, that the idea was to take him away from that house to prevent his constantly being reminded of that room?

122 A. We left the house when my father was very ill. It would not have been proper for us to let him continue there, considering his condition at that time.

Q. Then the idea was to remove him to the Escolta, was it not?

A. Yes; he was simply taken to the Escolta, because it was expected that my father would recover his normal condition, and that, in that case, the house where my mother had died would have a bad effect upon him.

Q. Is it true that when your father was able to speak, he spoke in such a manner that it was impossible to understand him?

A. While I was with him it was impossible to understand him.

Q. You did not even hear others refer to him as having spoken to him during your absence?

Mr. MONTAGNE: I object to the question, because it calls for any answer which is simply hearsay.

The COURT: The witness should not answer.

Q. Do you think that your father could have said these words, "I do not know anything about that," or words to that effect?

A. I do not think he would have been able to say that, because he could not speak.

Q. Do you know that a person could have talked to your father for about half an hour continuously?

123 A. A person could have talked to him for half an hour, for two hours, and for that matter he could have talked to him forever.

Q. Do you think that during that half hour that a person talked to your father about a family affair or some other matter—do you think he would have been able to answer?

A. I do not think that my father would have been able to answer, because he was unable to do so and it was impossible; that is all.

Q. Do you know who was your father's attending physician here in Manila?

A. The only physician that I remember was Doctor Candelas.

Q. Do you know whether your father was visited by any other doctor when he was taken sick?

A. Many more doctors may have been called, but my father's attending physician was Doctor Candelas.

Q. In Spain, who was your father's doctor there?

A. Doctor Robert.

Q. Do you remember whether they called in any other doctor in Spain?

A. No.

Q. During your stay in Spain, do you not remember whether friends from the Philippines called on you and spoke to you about local affairs?

A. Yes, a number of friends visited the family, but they spoke to my brothers and talked to them.

Q. Did they speak to your father?

124 A. No, because my father did not stay very long in the reception room. His condition did not permit of his entertaining visitors.

Q. Do you remember having seen in Spain any person from the Philippines talking to your father, whose conversation made a bad impression on him?

A. I have already stated that many people came to the house but I do not remember that they ever talked to my father.
Q. Was your father unable to speak?
A. He stammered.
Q. Could you understand him?
A. No.
Q. Was it impossible to understand him?
A. He stammered so much that it was impossible to understand what he said.
Q. Could he not articulate?
A. No.
Q. Do you know whether your father was ever in Paris?
A. Yes.
Q. Was it before or after you went away?
A. Before I went away.
Q. Did you go to Paris?
A. No.
Q. Do you remember how long he was in Paris?
A. I do not.
Q. Do you know whether Doctor Candelas, who attended your father, is now dead?
A. He died long ago.
Q. That is all.

The COURT: The hearing is adjourned until to-morrow at
125 nine a. m.

I certify that the foregoing is a correct transcript of my notes.
(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

126 PLAINTIFFS' EXHIBIT 9.

Testimony of TRINIDAD ENRIQUEZ, who, having been duly sworn according to law, testified that her name was Trinidad Enriquez.

Questions by Mr. MONTAGNE:

Q. Are you one of the daughters of Antonio Enriquez Y Sequera?
A. Yes, sir.
Q. Are you one of the plaintiffs in this action?
A. Yes.
Q. Can you state your age?
A. Thirty years.
Q. Were you in Manila during the years 1882 and 1883?
A. Yes.
Q. How old were you at that time?
A. Eleven or twelve years.
Q. Did you live with your father, in his life time, until he went to Spain?
A. All my life.

Q. Do you remember when the last illness of your father commenced?

A. Yes.

127 Q. Can you state the date on which he was first taken ill?

A. In the month of October; I do not remember the date; I was nothing but a child.

Q. Of what year?

A. Of 1882.

Q. Where was your father living at that time?

A. On Calle David, number four.

Q. What members of the family lived there with you?

A. All my brothers and sisters lived there with him.

Q. Did your brother Francisco Enriquez live with you at that time?

A. No.

Q. Did your brother Rafael Enriquez live with you at that time?

A. No.

Q. Can you state which of your brothers are now in Manila?

A. Rafael, Antonio, Francisco, and myself.

Q. Where are the other children of Antonio Enriquez?

A. In Spain.

Q. During your father's illness and during his stay on Calle David, number four, did you see him every day?

A. Every day; I lived with him.

Q. Did you see him every night?

A. Yes.

Q. Can you state who took care of your father during his illness?

A. The servant Pascual, Antonio, Cayetano and myself. We took turns.

128 Q. Did you go to school when your father was sick?

A. No, when he was taken sick I stopped going to school.

Q. Did you go to school after your father was taken ill?

A. No.

Q. Can you state how long he remained on Calle David after he was taken ill?

A. One month.

Q. Was Don Antonio removed to some other place?

A. Yes.

Q. To what place?

A. To the Escolta. He was sad, because he realized his condition, and often shed tears; and the doctor recommended that he be taken out of that place.

Q. The house to which he was removed to the Escolta, is the one at present occupied by the English Drug Store?

A. Yes, but he was taken to the apartments in the back part of the building.

Q. Do you mean the premises occupied by Messrs. Watson & Company?

A. Yes.

Q. After he was removed to the Escolta, did he continue to live there until he went to Spain?

A. He took the launch on the Escolta itself for the boat.

Q. During your father's illness on Calle David, did you ever hear him speak?

A. No, he was unable to speak; he stammered.

Q. Did you speak to him?

A. He could hear, but he could not answer.

129 Q. Did you see any other person speak to him?

A. My brothers did.

Q. While he was on Calle David, did he speak with any person who talked to him?

A. He was unable to speak until the time of his death.

Q. During his stay on Calle David and during his illness, did you ever see your father get out of bed alone?

A. He could not get up alone. We had to dress him up and wash him; we fed him; he was completely powerless.

Q. Did you ever see him on Calle David and during his illness sit up alone in bed?

A. He could not sit up alone.

Q. You state that only a month after he was taken sick he was removed to the Escolta?

A. Yes.

Q. During your father's stay on the Escolta and during his illness, until the time of his departure for Spain, did you see him every day?

A. Yes, sir, every day, in the morning, afternoon and evening.

Q. And during your father's stay on the Escolta, did you go to school?

A. No; when he was taken sick, he told us to stop going to school.

Q. During your father's stay on the Escolta, and during his last illness, did you ever hear him speak?

A. No, because he stammered so badly that he could not make himself understood.

Q. During your father's stay on the Escolta, until the time of his departure for Spain, did you ever see him get out of bed alone?

130 A. He could not get out of bed, because his body was practically dead, and it was impossible for him to make any movement at all. We had to dress him, and unassisted he could not get up.

Q. During his stay on the Escolta and during his last illness, until the time that he left for Spain, did you ever see your father sit up in bed alone?

A. He could not sit up alone.

Q. Can you state whether your father, during his illness, and while he lived on the Escolta, ever went out, either in the day or at night to any other house?

A. He could not go out.

Q. Did he, or did he not go out?

A. He did not.

Q. During your father's illness, either on Calle David or on the Escolta and until the time of his departure for Spain, either in the day time or in the evening, did you see any person or persons there

with your father, reading, writing, signing or reading any document to him?

A. No, nobody went there; nobody at all.

Q. Do you know a man by the name of Miguel Torres?

A. No, I do not know who he is.

Q. Do you know a man by the name of Zoboli?

A. Neither.

Q. Who took care of your father during his stay on the Escolta?

A. All of us, my sisters Tula and Carmen and myself, the servant Pascual, and my brothers Antonio and Cayetano.

131 Q. Were you there when your father was removed from Calle David to the Escolta?

A. Yes.

Q. How was he removed?

A. He was taken down in a chair and put into the carriage, and when they arrived at the Escolta he was taken out of the carriage, put in a chair and then taken upstairs—exactly the same way that he was taken when he was taken downstairs at the house on Calle David.

Q. Do you know Carmen de la Cavada de Enriquez?

A. Yes, I know her now: Formerly I did not.

Q. Did you ever see Carmen de la Cavada de Enriquez in the house on Calle David or on the Escolta during your father's stay there?

A. No.

Q. Was Carmen de la Cavada present when your father went to Spain?

A. No.

Q. Can you state whether Carmen de la Cavada ever went to that house?

A. I do not remember; I never saw her there.

Q. Were you with your father until the time of his death?

A. Yes.

Q. Where did he die?

A. In Madrid, 59 Alcala opposite the Retiero Park.

Q. In what year did your father die?

A. On the thirty-first of July, 1884, at four o'clock in the morning.

132 Q. Were you with him when he was in Paris?

A. At that time I separated from him, it was a question of two or three months that was all.

Q. Do you know why he went to Paris?

A. He went there to be cured and find out what the doctors had to say.

Q. That is all.

Questions by Mr. CHICOTE:

Q. Did you constantly attend to your father during his illness?

A. Yes, sir.

Q. Were you with him constantly, day and night?

A. Yes.

Q. Is it not true that you played with other children in the lower apartments of the house?

A. My sister Concha did play, because she was younger than I.
Q. Are you older than your sister Concha?
A. Yes.
Q. You having been constantly with your father, do you remember who, outside of the members of the family, went to visit him?
A. Many people went there, but nobody would go into the room unless he was a member of the family, because the doctor had given instructions that nobody should be allowed in the room.
Q. Then no stranger could speak to your father?
A. No.
Q. And nobody could talk to him?
A. Quintos did speak to him.
133 Q. And how many times did Mr. Quintos speak to him?
A. On the Escolta, several times.
Q. How long do you think Mr. Quintos talked to your father on the various occasions to which you refer?
A. I do not remember; I was very young.
Q. Do you know what Mr. Quintos talked to your father about?
A. He went there on business matters, and for money, and in certain affairs concerning his wife.
Q. Did he speak to your father about that?
A. I do not know; because I was there, but when I saw them come I would go away. I only know that he went there on money matters, and I did not meddle with such things, because I was too much of a child.
Q. Do you remember having seen Carmen Gonzales at the house?
A. Yes.
Q. Where did you see her?
A. On Calle David.
Q. Do you remember having seen her on the Escolta?
A. I do not.
Q. Did Carmen Gonzales ever speak to your father?
A. Yes, because she was his friend and a distant relative of his; but he never answered.
Q. Is Carmen Gonzales a relative of yours?
A. Yes, on her husband's side.
Q. What relationship exists between you?
A. I think she was my father's cousin.
Q. How, and to what extent did your father stammer?
A. He was unable to speak.
134 Q. You mean absolutely?
A. He could only talk by signs, and whenever he wanted something he would make a sign by nodding his head, and we had to guess what he wished.
Q. Were you present when your father was taken from Calle David to the Escolta?
A. Yes, for I was leaving with him.
Q. Were you present when he was taken upstairs to the Escolta?
A. Yes.
Q. Were you there?
A. Yes, he was taken in a chair.

Q. Did you accompany your father all the way from Calle David to the Escolta?

A. We were all there.

Q. Did you all leave Calle David at the same time?

A. Yes, we all left together; some were ahead and the others followed.

Q. Was there any improvement in your father's illness, either on Calle David or on the Escolta?

A. Practically none; he could not sit up alone, could not eat alone and we had to feed him while he lay in bed.

Q. Then was his condition the same during the trip to Europe and during his stay in Spain, until the time of his death?

A. Yes, he could not help himself and was unable to speak.

Q. During your father's illness, I mean the paralysis of the left leg, did he ever succeed in walking alone?

A. No, he could not move the leg and we had to help him all the time.

135 Q. Did he never manage to use his right leg?

A. He dragged it.

Q. Could he not walk alone?

A. No, he had to be helped.

Q. Was he ever able to use his right arm?

A. No, the right arm was practically dead. We had to help him along and hold his arm up like this (Witness indicates by a motion).

Q. Considering your father's condition, he at no time was able to give any instructions or take any action on any matter whatever?

A. He was not in his right mind, and his tongue was powerless to speak.

Q. Do you know what doctor attended your father?

A. Doctor Candelas.

Q. Do you remember what Doctor Candelas recommended as to your father's removal to the Escolta—where you present whenever the doctor called?

A. We were all present.

Q. What did Doctor Candelas say?

A. He advised us to take him out of the house, which had such unpleasant recollections for him. He was very fond of my mother, and, well all the rooms brought up sad memories to him.

Q. When you talked with your father, could you understand him?

A. He could hear, but he could not speak and could not use his arm.

136 Q. Why do you say that he could hear you?

A. Because he attempted to answer, but could not do so; he stammered so badly. Whenever he wanted something, we asked him what he wished and he would simply stare at us and stammer. He looked as though he understood what we said but could not reply.

Q. Then when you talked to your father, you think he understood what you said?

A. He understood, but could not speak.

Q. Did he ever articulate any words?

A. Very few—practically none; he stammered so badly; he could not speak.

Q. But he could speak some, could he not?

A. He could only move his tongue. The Doctor said that half of his body was dead. His mind was like that of a child, and he often cried without knowing why.

Q. Did your father speak Tagalog?

A. No; he had lived here for forty years, and all that he could say was: "Tubig"—that means "Water," "Saran an "pientu"—which means "Close the door," "Saguin"—which means "Banana."

Q. Did you know Francisco's wife before you left there?

A. Yes, sir.

Q. Did you ever associate with her?

A. Yes, but very little.

Q. Where was Francisco Enriquez living at that time?

A. At number nine Calle David, in front of our house.

137 Q. Did you ever go to your brother's house?

A. Very seldom.

Q. On the few occasions that you went to your brother's house, did you ever see his wife?

A. Yes.

Q. Then you knew Carmen de la Cavada at that time, did you not?

A. Yes, I did know her.

Q. Did you associate with her.

A. Very little; I very seldom went to her house.

Q. What about your other brothers—did they go to Francisco's house?

A. I do not remember.

Q. Did you ever go to his house in company with your other brothers?

A. I do not remember.

Q. That is all.

Questions by Mr. MONTAGNE:

Q. Do you know why Carmen de la Cavada did not go to your father's house?

A. Because my father would not see her.

Q. Do you know whether your father had given any instructions with regard to Carmen de la Cavada?

A. Yes, he would not see her; he did not even want her around him; she was the subject of too much scandal around Manila, and he would not see her.

Q. That is all.

138 PLAINTIFFS' EXHIBIT 10.

"Office of the Commanding Officer of Marine, Province of Manila."

In reply to your favor of the 27th instant, I have the honor to inform you that according to the list of passengers on file in this department, of the Mail Steamer "Barcelona" which left this port for Spain on the first of April, 1883, the name of Antonio Enriquez, Chief of Administration, appears as a passenger.

Manila, Dec. 31, 1897.

Respectfully,

(Signed) ANTONIO CANO.

To the Court of First Instance of the District of Binondo.

PLAINTIFF'S EXHIBIT 11.

I, Manuel Gondar y de la Torre, the Priest temporarily in charge of the Parish Church of San Geronimo el Real of this City of Madrid,

Do hereby certify: That on page 20 of the Register of interments of adult persons the following entry appears: "In the City of Madrid, this 30th day of July, 1884, there died at the age of 64 years Antonio Enriquez y Sequera, a native of Paris, the legitimate son of Francisco and Gertrudis, natives of Antequera, province of Malaga and Granada, respectively, and the surviving husband of Ciriaca Villanueva y Solis, a native of Manila, by whom he had eleven children, named: Rafael, Francisco, Jorge, Rosario, Carmen, Cayetano, Gertrudis, Antonio, Trinidad, Concepcion and Manuel; he resided at 59 Calle Alcala; he received the holy sacrament of the penitence,
139 communion and extreme-unction; he executed a will in Manila and for this reason it is unknown before what Notary it was executed and who are his executors, leaving as heirs his eleven children above mentioned; he had a fourth class funeral and his body was interred in the Sacramental de San Nicolas in one of the niches. In witness whereof I sign these presents.

The foregoing is a true copy of the original entry on record to which I refer. San Geronimo el Real of Madrid, this 22 day of August, 1884.—Manuel Gondar.—The undersigned Notary of this City does hereby certify to the genuineness of the foregoing signature of Manuel Gondar y de la Torre, the Priest temporarily in charge of the Parish Church of San Geronimo el Real.—Madrid, August 25, 1884.—Zacarias Alonso y Caballero—The undersigned notaries of this City do hereby certify as to the genuineness of the signature and mark of the Notary Zacarias Alonzo y Caballero, affixed to the foregoing certificate. Madrid this 25th day of August, 1884.—Magdaleno Hernandez y Sanz.—Francisco G. Mochigo. (Seal).—True copy: A. Heras, Assistant Clerk, Court of First Instance of Manila, P. I.

140 PLAINTIFFS' EXHIBIT 12.

Testimony of Tomas Rodriguez.

Having been duly sworn according to law, testified that his names was Tomas Rodriguez, residing at 246 Calle Magallanes, and a lawyer by profession.

Questions by Mr. MONTAGNE:

Q. How long have you lived in Manila?
A. Since I was born.
Q. What is your occupation?
A. Lawyer.
Q. Were you in Manila in the years, 1880, 1882 and 1883?
A. Yes.
Q. Have you ever heard anything about the circumstances of the illness of Antonio Enriquez and his subsequent departure for Spain?
A. Yes, I have.
Q. Do you remember the time?
A. No, I do not.
Q. Did you know Miguel Torres, formerly a Notary Public of Manila?
A. Yes, he was an intimate friend of mine, and a schoolmate.
Q. Do you know whether he is dead or alive?
A. He died many years ago.
Q. Did you — Federico Zoboli?
A. Yes, he was also a friend of mine.
Q. Were you acquainted with Miguel Torres, formerly a notary public of this city?
A. Yes.
Q. Do you know whether Federico Zoboli is now in the Philippines?
A. No, he is — Spain.
141 Q. Has he been absent very long?
A. Yes, but I cannot state how long. He has been absent for a long time, but his family is here.
Q. Do you know whether there was any relations between Miguel Torres and Mr. Zoboli in the former's lifetime?
A. Yes, they were friends.
Q. Where did Mr. Zoboli work at the time?
A. There was a time when, I am not sure, he worked for Miguel Torres. Mr. Torres was a lawyer and a Notary Public and Mr. Zoboli was then a clerk in his office. I cannot state the time exactly. This was many years ago.
Q. Do you know whether Feberico Zoboli was at that time a clerk in the office of the Notary, Miguel Torres?
A. Yes, he was there, he was a clerk and worked in the office as an assistant.
Q. Can you state approximately the date when Federico Zoboli worked as a clerk in the office of the Notary, Miguel Torres?

A. I cannot state the date exactly for this happened some twenty or thirty years ago.

Q. Do you know whether Mr. Zoboli worked as a clerk for Miguel Torres at the time Antonio Enriquez left for Spain?

A. I think that at the time Antonio Enriquez was taken ill, Mr. Zoboli worked in the office of the Notary, Mr. Torres.

Q. That's all.

Questions by Mr. CHICOTE:

Q. Did you know Mr. Zoboli when Antonio Enriquez was living and whether Mr. Zoboli then practiced law?

142 A. I knew him as a lawyer but I cannot say whether he practiced law at that time. He was older than I in the profession but I can not say whether he was practicing then.

Q. Were you an intimate friend of this man, Mr. Zoboli?

A. Yes, we were intimate friends, as he was a clerk in the office of Mr. Torres.

Q. Did you ever see him working in the Notary's office?

A. I saw him working there many a time because he was an intimate friend of Mr. Torres, now deceased, and a man in his confidence.

Q. Did you ever go to the office of Mr. Torres for the purpose of executing some document?

A. For the purpose of executing instruments, no, but for the purpose of interviewing him on matters connected with the profession, yes. I never went there for the purpose of executing any instruments.

Q. Did you advise any person to go there for the purpose of executing some instrument?

A. I don't remember. It may be that I have, for we were very good friends but I cannot say positively.

Q. Were Mr. Zoboli and Mr. Torres looked down upon or did they have a good reputation with reference to their morality?

A. Mr. MONTAGNE: I object to the question as irrelevant and immaterial, having no foundation in this case. The moral conduct of these men is not here at issue.

The COURT: I cannot allow the question.

Mr. CHICOTE: That's all.

143 PLAINTIFFS' EXHIBIT 13.

Testimony of Bonifacio Briones.

Having been duly sworn, testified that his name was BONIFACIO BRIONES, residing at No. 219 Calle Soler, Manila, 58 years of age.

Questions by Mr. MONTAGNE:

Q. How long have you, lived in Manila?

A. Since I was born.

Q. What is your occupation now?

A. I used to be a clerk of court, having resigned in July last year.
Q. Were you in Manila in the years 1880 and 1881?
A. In 1881 I went to the Island of Negros and came back to Manila July 1, 1882.
Q. What was your occupation in Manila during the years 1882, 1883 and 1884?
A. I used to attend the court.
Q. You mean as a clerk?
A. No, I was simply in charge. I became a clerk of Court in 1887.
Q. Do you know Francisco Enriquez?
A. I used to be with him when he was Judge of the Court of First Instance.
Q. You mean you were a judge?
A. No, Francisco Enriquez was a judge.
Q. Judge of the Court of First Instance?
A. Yes, sir, judge of the Court of First Instance for the District of Quiapo.
Q. Did you know about that time a man by the name of Miguel Torres?
A. Yes sir, he was my schoolmate.
144 Q. Do*d* you know whether he is living or dead?
A. I think that he died in 1887 or 1888.
Q. Do you know whether he was a Notary Public at that time?
A. Yes, sir, and a lawyer.
Q. Did you know a man by the name of Federico Zoboli about that time?
A. Yes, sir, we were schoolmates.
Q. Did he have his office or his desk in the office of Mr. Torres?
A. I went to see him once in his office on Calle San Vicente and they told me to go to the office of the Notary, Mr. Torres, in the house now occupied by Mr. Herevia, where I saw him three or four times.
Q. Did you see him there often working?
A. Yes, I saw him writing.
Q. How many times?
A. Three or four times.

Mr. MONTAGNE: That's all.

The COURT: Session adjourned until three o'clock this afternoon.
I certify to the correctness of the transcription of the above testimony.

(Sgd.) JULIO GIMENEZ JEREZ,
Stenographer.

145 PLAINTIFFS' EXHIBIT 14.

Testimony of Carmen de la Cavada de Enriquez.

Having been first duly sworn testified that her name was CARMEN DE LA CAVADA DE ENRIQUEZ, 39 years of age, residing at 296 Calle San Sebastian.

Questions by Mr. MONTAGNE:

Q. Are you the wife of Francisco Enriquez?
A. Yes, sir.
Q. Are you one of the defendants in this case?
A. Yes.
Q. Did you know Antonio Enriquez in his life time?
A. Yes.
Q. Do you remember when Antonio Enriquez was taken ill in Manila?
A. Yes.
Q. How long before Antonio Enriquez was taken ill were you married?
A. Some six or eight months, I do not remember exactly.
Q. Did you visit Antonio Enriquez during his life time?
A. I was almost all the time by his side.

146 Q. Where did Antonio Enriquez live at the time he left the Philippines.
A. On the Escolta, No. 14.
Q. Do you mean where the English Drug Store now is.
A. Yes.
Q. How many months had *be* been living on the Escolta?
A. A few months.
Q. During his illness on the Escolta and before he left for Spain did he go out of the house.
A. We used to go out driving with his daughters, Tula and Trinidad.
Q. Did he go out driving.
A. Yes sir, to the Luneta, the Malacon and Sampaloc.
Q. Could Antonio Enriquez walk?
—. Yes.
Q. Could he walk alone?
A. Yes, because he sat at the table with us and climbed the steps without any assistance.
Q. That was before he went to Spain?
A. Yes.
Q. Could he talk distinctly?
A. Perfectly.
Q. And could you converse with him?
A. Yes.
Q. Could you understand him distinctly?
A. Yes, he spoke of everything.

Q. Until he went to Spain?
A. Yes.
Q. Before he went to Spain did he speak to you with reference to some property of yours?
A. Yes.
Q. How long before he left for Spain?
A. I do not remember.
Q. More or less?
A. A few months.
Q. Was he ill then?
A. He was but he could talk as well as you do now.
Q. What did he say with reference to that property?
A. I do not remember exactly.
147 Q. In substance, what did he say?
A. I do not reme-ber.
Q. Don't you remember in substance what he said?
A. No.
Q. What did he say to you?
A. He said yes?
Q. How many questions did he answer?
A. Those things happened too long ago for me to have kept them in mind.
Q. All the conversation you had with him was that he said yes to you?
A. Yes.
Q. Don't you remember anything else?
A. Nothing else.
Q. Do you remember having bought from Antonio Enriquez a piece of property on Calle David?

Mr. CHICOTE: I object to the question because that property is not in controversy here.

WITNESS: I do not remember.
Mr. MONTAGNE: Don't you have any recollection about a piece of property on Calle David?
A. I have no recollection at all.

Mr. Montagne then stated that he wanted to have it appear of record that Attorney Chicote had advised the witness that she could refuse to answer any question to which he might object as irrelevant, and that such questions the Court would decide later whether they were proper and competent or not.

Q. Do you remember whether during the latter part of March, 1883, you had some business with Antonio Enriquez?
A. I have not had any business with him.
Q. Don't you remember whether in the year 1883 you bought a piece of property from Antonio Enriquez?
A. Yes, but I did not buy it from him.
148 Q. Do you remember that during that same month Don Antonio bought, or you received from him a deed of sale for a piece of property on Calle David?
A. Yes.

Q. How long before Don Antonio Enriquez left for Spain did you receive that conveyance?
A. I do not remember.
Q. How much did you pay to Antonio Enriquez for that property?

Mr. CHICOTE: I object to the question because that must appear in the public instrument itself.

A. I do not remember.
Q. Whatever money you paid to Antonio Enriquez for that property on Calle David, where did you get it?
A. It was mine, absolutely mine.
Q. How long before that date did you acquire that money?
A. I had the money when I bought the property and it never occur-ed to me that I would have to tell anybody where I got the money from. The money was mine.
Q. Did that money come to you through inheritance from some one?
A. No.
Q. That money, then, was acquired by you in business?
A. Yes.
Q. What kind of business?
A. That is nobody's concern.
Q. Did you ever have any commercial business?
A. Yes.
Q. What kind of business?
A. I do not remember.
Q. Have you ever speculated in real estate?
A. Never.
149 Q. Did you ever engage in the transportation business.
A. Neither.
Q. In the mining business?
A. No.
Q. Can you state in what kind of business you made that money?
A. Legitimate and honorable business.
Q. Can you specify the business?
A. Such business as a respectable woman might engage in.

Q. I do not mean to insinuate that the business in which the witness engaged was not legitimate and honorable, far from that; what I simply want to know is the kind of business in which she has acquired that money, but I have never supposed for a moment that the business was not lawful and legitimate. I simply want to make this statement and have it so understood.

Q. The money with which you bought the house on Calle David, you had before you were married?
A. Yes.
Q. Did you have — in any bank.
A. No, I always kept it myself.
Q. How long before you were married did you acquire that money?

A. I do not remember.
Q. Did you keep it in bank notes or in silver?
A. Both.
Q. How much, more or less, did you have in silver?
A. That was too long ago and I cannot remember it.
Q. In bank notes?
A. I can not remember.
Q. Where did you keep that money?
A. In my possession.
Q. About your person or in some other place?
A. In my wardrobe.
150 Q. How much did you have.
A. I can not remember.

Q. Now, confining myself to the purchase you made from Victoriano Reyes, do you remember having bought that property a year later, I mean the property on the Riverita.
A. Yes.
Q. Was Antonio Enriquez absent from Manila at that time?
A. Yes.
Q. It was about a year after he left, was it not?
A. Yes.
Q. How much did you pay Victoriano Reyes for that land?
A. If I remember correctly, I paid him 2,500 pesos.
Q. Where did you get that money from?
A. It was mine.
Q. Was it yours too?
A. Yes.
Q. How long before that time, and before you purchased that land, did you acquire that money?
A. I had the money.
Q. About how long before that time?
A. I can not say how long. I had that money because it was mine.
Q. Did you acquire that money before or afterwards.
A. Before and afterwards.
Q. Part of that money you acquired afterwards, did you?
A. Yes.
Q. From whom did you get the money?
A. My husband and I made an agreement that I should manage my money and he manage his. My husband gives we whatever is necessary for the household expenses, the education of the
151 *education of the* children, etc., and I look after my own personal business.
Q. Do you have that contract with you?
A. Yes.
Q. Is it in writing?
A. Yes, we made — in the provinces.
Q. Did you make that agreement after your marriage?
A. Yes.
Q. You say that your husband has that contract?
A. Yes.

Q. Was that contract executed before a Notary Public?
A. Yes.
Q. Before what Notary?
A. I do not remember.
Q. Where was that contract executed?
A. Here in Manila.
Q. How long after you were married?
A. I cannot say.
Q. You say that you do not have that contract in your possession?
A. My husband has it.
Q. Then the money which you invested in the purchase of that property was acquired in your business before and after you were married?
A. Yes, sir.
Q. How much of that money did you make after your marriage?
A. I am unable to say. I never thought that I would be called upon to account for the money that I made.
Q. What was that money you made after your marriage?
A. I am unable to say.
Q. Where was Antonio Enriquez when you paid that money for the property on Calle David?
A. Please do not ask me any more questions about the property on Calle David because I have absolutely no recollections about it.
Q. Have you no recollection at all about the property on Calle David.
A. I have no recollection at all.
152 Q. Did you speak to Victoriano Reyes before the purchase of the property on the Riverita took place?
A. No, it was he who called upon me and asked me whether I wanted to buy that property.
Q. Where did he make that proposition to you?
A. Further up the street. On this same street, No. 14. I do not know the present number of the house.
Q. How long before the deed was executed did Victoriano Reyes speak to you about the matter.
A. Some two years.
Q. Was it in the day time or at night?
A. In the day time.
Q. At what hour?
A. I do not remember.
Q. Was somebody else with him or was he alone?
A. Alone.
Q. What did he say to you the first time?
A. Whether I wanted to buy that property.
Q. What did you say to him?
A. That I would think it over and later I told him that I did want to buy it.
Q. What else was said?
A. I do not remember, this was so long ago, more than seventeen

or nineteen years ago. It is impossible for me to remember what happened seventeen years ago.

Q. Did Victoriano Reyes speak to you before that time?

A. Yes.

Q. Did you consult your husband about the proposed purchase?

A. At first I did not, but later I told him that I was going to buy it.

153 Q. What did your husband say to you?

A. He told me to do as I pleased; that if it suited me to buy it I could do so, otherwise I did not have to.

Q. Do you remember when Antonio Enriquez left for Spain?

A. No.

Q. Were you present when he left?

A. Yes.

Q. On the day that he left for Spain, could he walk and move about?

A. Yes, sir, by leaning on a cane he could walk all about the house on the Escolta. This house had a very large hall and he could walk from one end to the other; and he could talk about feasts, business and everything.

Q. Were you there when he left for Spain?

A. Yes.

Q. Where did he take the launch when he went to Spain?

A. On the Escolta, back of the house.

Q. Who was present when he left for Spain?

A. How can you expect a person to notice the people around while saying goodbye to a dear member of the family. I do not know, we were all there. I do not remember.

Q. How long before did you arrive at the house?

A. We were all there since early in the morning.

Q. Do you remember whether Antonio Enriquez had a servant who helped and waited on him?

A. None.

Q. Do you remember the names of the servants who were there?

A. I do not.

Q. Do you remember the names of the persons who were present when he left?

A. I cannot state the name of the persons who were there.

Q. Who went away with him?

A. His son Antonio and his daughters, Concha, Trinidad,

154 Carmen, and that's all—Paulina, a Chinese servant.

Q. That's all.

Questions by Mr. CHICOTE:

Q. When you bought the property from Victoriano Reyes and you paid him the 2,500 pesos, where was the money delivered?

A. At the same house.

Q. Prior to the execution of the instrument?

A. The day before he gave me a receipt and on the following day

he sent me the deed and on the following day I went to the Notary for the purpose of signing the deed.

Q. That's all.

Questions by Mr. MONTAGNE:

Q. Where is the receipt that Victoriano Reyes gave you?
A. The receipt was destroyed at the time the deed was executed.
Q. They you do not have that receipt in your possession, have you?
A. Having the deed, what was the use of having the receipt too? It was unnecessary and worthless, and it was destroyed.

Q. That's all.

I certify that the foregoing is a true transcription of the testimony of Carmen de la Cavada de Enriquez taken at her residence No. 296 Calle San Sebastian, Manila, P. I., on the 29th of May, 1902, at 9.30 a. m.

(S'g'd) JULIO GIMENEZ JEREZ,
Official Stenographer.

155 PLAINTIFFS' EXHIBITS 15.

Testimony of Rafael Enriquez,

who, having been duly sworn according to law, testified that his name was RAFAEL ENRIQUEZ.

Questions by Mr. MONTAGNE:

Q. Are you one of the sons of Antonio Enriquez y Sequera?
A. Yes, sir.
Q. How old are you?
A. Fifty-three years.
Q. Are you the next younger brother of Francisco Enriquez?
A. Yes, I am two years younger than he.
Q. Where did you live during the years 1882 and 1883?
A. In Paris.
Q. Where were you at the time your father was taken ill?
A. In Paris.
Q. Did you see your father in Europe?
A. I went to meet him—my brother advised me of his coming.
Q. What brother?
A. My brother Francisco notified me of my father's coming. The letter in which he advised me of his coming has been introduced in evidence.

Q. Where did you meet your father?
156 A. In Barcelona, on board of the steamer.
Q. Can you state approximately the date on which you met your father at Barcelona?
A. In May, 1883. I think it was in May.

Q. How long did your father remain in Barcelona?

A. A very short time. A few days after his arrival, and while at the hotel, he had a shock and the children and myself were very much alarmed. I knew that he was subject to a recurrence of the same ailment, and having made the sacrifice of bringing him home to Spain, I decided to take him to Paris for the purpose of consulting the physicians there about his illness, where the best in science and art and everything else is to be found.

Q. Did you say that you remained in Paris a short time?

A. Yes, sir.

Q. Where did you go after you left Barcelona?

A. We went to Paris.

Q. Did you take him to Paris?

A. Yes.

Q. How long did you stay in Paris?

A. We stayed there until the month of October of that year.

Q. Do you know whether your father was treated by any physicians in Paris?

A. Yes.

Q. Was he examined by them upon his arrival there?

A. Yes, sir, by the best and more prominent physicians of Paris.

Q. Do you know whether he was examined by Doctor Hortelout?

A. Yes, sir; and also by doctors Dubrisay and Charpentier.

157 Q. How long did you stay in Paris?

A. Until the month of October.

Q. After you left Paris, where did you go?

A. To Spain.

Q. To what part of Spain?

A. To Barcelona. He went back alone, because I could not go with him.

Q. What members of the family were with your father in Paris?

A. My sister Carmen.

Q. Who accompanied your father from Paris to Barcelona?

A. My sister Carmen, and my uncle the Marquis of Villacastel.

Q. Did your uncle the Marquis of Villacastel attend your father while in Paris together with you?

A. No, sir, he simply went there twice, remaining only a few days, and after that he returned to my brother.

Q. Was the Marquis of Villacastel your father's brother?

A. Yes.

Q. Were you present when your father died?

A. No, sir; he died the year after I left him. I was never informed of his death, but was compelled to find out for myself. Three months had elapsed and I had never been told that my father was dead.

Q. Do you mean that you were constantly with your father from the time of his arrival in Barcelona until he left Paris?

A. Yes.

Q. While you were with your father did you observe the course of his illness.

A. Yes, sir.

158 Q. Can you state to the court the condition of your father at the time while you were with him?

A. Yes.

Q. Then explain to the court.

A. Apparently, my father had great difficulties. He had lost his mind. I had no idea of it, and had never had an occasion to observe an illness of that nature. He was absolutely confident that the science of the Parisian doctors would return to him his mental faculties and his life. My father, however, continued in the same helpless condition. With reference to his ability to move his body, I have nothing to add to what I have already stated. I previously stated that he could not move except with great difficulty. We had to help him in order to carry him from one place to another. In Paris, his condition improved considerably; he improved very much. In view of his improved condition, I decided that he should take some exercise, to the extent that I took him occasionally for a drive. One afternoon we were out driving as usual, and on the way back to the house it commenced to rain, we stopped, and he sat in a chair, while I went into a store to buy a pair of boots. Whilst sitting on the chair he attempted to lean on another chair near by, missed it and fell on the floor and fractured one of his legs. I immediately called the doctors, and they told me to notify the family—apparently because they realized that he might die as a result of this accident, or that he might have another shock like what he had before. In

159 view of this, I advised the family to come to Paris and look after my father during his illness, but my orders were never obeyed. They waited for instructions from my elder brother, who had directed them to do nothing except what he would order from Manila. All of them had to obey whatever he said. I never thought that such could be the case. I realized my father's condition and the nature of his ailment. It seemed to me that the most natural thing was that the old man should be surrounded by his children, but it was absolutely impossible for them to come, as I had advised them to do. I even sent them a telegram, saying that I could come after them, but it was of no avail. It was then that my uncle the Marquis of Villacastel came to inform me that it was only my brother who could give orders and decide what the family should do. My uncle further told me that I also had to obey him; but I told him that this could not be. During all that time my father was visited by the physicians. I continued to receive letters from my brother Francisco, wherein he communicated with my father upon various matters, as though he was in possession of all his senses, when, as a matter of fact, he was unable to write and could not understand anything about that. I then consulted the physicians, and they told me that my father was unable to investigate, look into, or have anything to do with such matters. I also asked them whether there were any probabilities of his recovering entirely, and they told me, "No, sir, he will never be cured; it is impossible; he will never recover his faculties," and such was his condition until he left Paris.

160 Q. During the time that you were with your father, did you ever hear him speak?

A. There was a time when he could babble, but very badly; he stammered awfully; sometimes I would ask him a question, and delude myself with the idea that he understood what I said. I cannot exactly describe his condition: He had no will power; he had no discernment.

Q. Where did you say that your father was when you noticed his improvement?

A. In Paris.

Q. Can you state how he babbled?

A. Very little; one could hardly understand what he said; he would go like this, "Como gro roro ruru gru."

Q. When did you return to Manila?

A. In the year 1896.

Q. In what month?

A. In the month of May.

Q. Did you take a boat from Spain?

A. Yes, sir, from Spain.

Q. Have you been in Manila ever since?

A. Yes.

Q. Are you employed?

A. Yes; and I have been compelled to abandon my family there for six years on account of this litigation.

Q. Where?

A. In Spain.

Q. Do you mean that you have abandoned your wife in Spain on account of this litigation?

A. Naturally so. I can not occupy myself in anything, and I have to settle this matter as soon as possible so that I may go
161 back to them. I am ready to make any sacrifice, because this is a most ruinous situation—having to be here while the family is in Spain.

Q. Are you the attorney-in-fact for the brothers and sisters who are now in Spain, with the exception of Carmen?

A. Yes.

Q. That is all.

162 Questions by Mr. CHICOTE:

Q. When your father arrived in Barcelona do you remember what was his mental and physical condition?

A. The condition I have just stated.

Q. Could he not move about, while in Barcelona?

A. Not by himself.

Q. Could he not take any action on any matter and communicate it to you?

A. He had no will power. He acted like a baby, and would weep on the slightest provocation. He was absolutely devoid of will power.

Q. Do you know who attended your father in Barcelona?

A. I did. We stayed there only a short time * * *

Q. I mean, after you arrived in Barcelona.

A. I do not remember the doctor who treated him. He was a doctor who lived nearby, the first one we came across. There was one living near the Rambla, and we called him. As I had lived in Paris for many years, and knew the difference between the French doctors and the doctors there, a friend of the family, whom I had known at the Royal Palace, came to see my father and told me that since we had made the sacrifice of bringing him to Europe from such a distant country we should take him to Paris, where the most prominent physicians were to be found, and there consult them about my father's disease. He assuring me that he would entirely recover, and I being of the same opinion, decided to immediately take him to Paris, and secure his complete recovery.

Q. Your father at that time was relatively strong and was conscious of what was going on around him?

A. No, sir; my brothers and sisters controlled everything,
163 and we all had to wait for instructions from Manila. This was the cause of much confusion, because sometimes we could not afford to await orders from Manila, particularly on urgent matters.

Q. Is that what you found upon your arrival at Barcelona?

A. Yes, and when I met my brothers I realized that they could not do anything without instructions from Manila.

Q. Did you arrive in Barcenola first, or were you already there when your father arrived?

A. No, I arrived there first, and immediately went to the steamer, after making preparations for his accommodations and arranging all that was necessary for his stay there.

Q. But was your father in such a helpless condition?

A. Yes, sir, and that is the best proof of it.

Q. Was he actually helpless?

A. Yes, sir.

Q. Did you consult your brothers' wishes when you took your father to Paris?

A. Yes, sir; we were all seized by the same fear—that my father would have another shock, which would endanger his life, and we all desired by all means to avoid his death; and for this reason we concluded to take him to Paris before he would have a relapse.

Q. The shock that he had in Barcelona—how long did it last?

A. A very few hours, because it was merely a mild shock. We thought that it would prolong itself, but fortunately it passed away; nevertheless, we feared a repetition.

Q. Do you remember in what month that happened?

A. In the month of May.

164 Q. What was the difference in temperature at that time of the year between Barcelona and Manila—was it about the same?

A. I know from experience that there is no comparison at all. We simply deceived ourselves about the climate and temperature. I still have the clothing that I used to wear in Spain in summer, and if I wore it there even in the hot season I was apt to catch a cold; if

I wore it here I would not be able to resist the heat—I would suffocate myself. You cannot wear any clothes here in Manila except these, whereas in Spain you can wear woolen clothes, and even then you can catch a chill very easily. There is quite a difference in climate between Spain and the Philippines.

Q. Do you know whether your father's condition while in Barcelona was the same as his condition in Manila?

A. I cannot say exactly, because I was not here at the time. All diseases have their periods of increase and decrease, and it would not be surprising that he had generally improved somewhat during the course of his illness; but apparently,—that is to say, from what you could see,—I think it was always the same, with very little difference perhaps, whatever his improvement really may have been. I cannot say as to that, positively, because I was not in Manila at that time.

Q. While he was in Paris his condition was apparently the same as when he arrived in Barcelona and during his stay in Barcelona, was it not?

A. Notwithstanding his relative improvement, he was practically in the same condition. However, I founded my hope, and the happiness of the whole family, in the belief that the Parisian
165 doctors would restore to my father his mental faculties, and that they would be able to overcome the disease. That is why I thought that he would again recover his normal condition. However, I realized that this was rather improbable, and came to the conclusion that it was a mere delusion on my part.

Q. In other words, you secured an improvement in your father's condition?

A. Very little.

Q. Can you state what the improvement consisted in?

A. In his general aspect, in that I could help him along better, that I could make him walk along with me, and finally, that he was not so ackward in moving in that he did not drag his paralyzed leg so much, and that he could move and walk better than before.

Q. Did you ever leave him alone?

A. I always had to hold him.

Q. Could he walk by simply leaning on your arm?

A. It was necessary to hold him by the two arms. He had the whole right side of his body practically dead, and the only part that he could move at all was the left side; and whenever he had any call from Nature I practically had to drag him and be constantly with him. I could not abandon him a single moment, and I had to feed him with a spoon.

Q. In other words, the paralysis from which your father suffered extended over the whole of the right side and the right leg, did it?

A. Yes, and he never recovered the use of it again.

Q. Was the whole side dead?

166 A. Yes.

Q. What was his physical improvement, then—what did it consist in?

A. In many things. He could eat more, and I could carry him along more easily; his appearance had improved, and I even had

the hope that my father would some day be able to recover control over us, as we all needed his advice very much.

Q. Then your father's mental condition did not improve at all, did it?

A. He never recovered his mental faculties, no, sir.

Q. Do you think your father was capable of making himself understood?

A. I think he understood what I said to him, because he used to nod his head. He bab-led a few words. He was not in the condition in which you seem to think he was. You think he had nothing but a stomach. Although his condition at that time revealed a certain improvement, the doctors told me that even though he might recover his speech he would never recover his will power, and would be incapable of anything, and be absolutely useless. They gave me a scientific explanation of this, which I cannot now remember.

Q. At the various conversations you had with your father was he consistent?

A. Sometimes I would ask him a question; he assented to what I said, but I was unable to judge of his degree of intelligence at that time.

Q. Did you notice that he had enough intelligence to understand your questions?

A. He would either say, "Yes," or "No," with the head.

Q. You mean to say that he nodded his head this way (from right to left) and from left to right?

A. Yes, sir, I think so.

Q. And was he suffering from hemiplegia at the time?

A. He had that, according to my brothers, until the time of his death.

167 Questions by Mr. MONTAGNE: The date on which you wrote this letter was February 9, 1883. Did you have knowledge then of your father's illness?

WITNESS: Nothing except what I learned from my brother, in which he said that he had been for about a month and fifteen days on the verge of death, and that notwithstanding the fact that two months had already elapsed he had not recovered his speech. I then wrote to him and answered his letters.

Q. That letter and the answer to that letter are attached to the record. The letter bears date of December 30, 1882, does it not?

A. Maybe.

Q. Did you have any knowledge as to your father's sickness other than the letters which you received from your brother Francisco in the year 1882?

A. Yes. In those letters he told me in detail about my father's sickness, saying that he had been practically dead for fifteen days.

Q. But you had no personal knowledge as to your father's condition, did you?

A. No, sir, except from letters I received.

Q. Have you anything more to say with regard to these letters?

A. No, except that under those circumstances, which would move

a stone to tears, I was the object of the vilest epithets, until they finally stopped sending me any more money. * * *

Mr. MONTAGNE: That has nothing to do with the case.

Mr. Chicote then read a letter, dated May 14, 1883, at-
168 tached to this record and marked Exhibit No. 8. (The original is attached to the record of the case numbered 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo.)

Mr. MONTAGNE: Mr. Rafael, have you heard read the letter identified by you and dated Barcelona, May 14, 1883?

WITNESS: Yes.

Q. Do you wish to make any explanation with regard to that letter, where it says, "I notice some improvement in father's appearance, and he is more agile now than when he first landed"?

A. The improvement I noticed in his general appearance was as follows: When I met him at the boat, and for a few days after his arrival, he looked haggard, but several days later it seemed to me that he had more life in him. He looked more serene, and seemed to have improved somewhat. On the boat I met him in a stateroom near the funnel. He made the trip in that stateroom, and he could not help being in that condition, particularly as he was sick. That is why I have said that his appearance had changed, and that I noticed more vigor and life in him; and it was natural, after he had recovered from the effects of such a long voyage. That is what I meant in that letter.

Q. Have you anything to say about that part of the letter which refers to the King's brother-in-law?

A. He was the uncle of King Alfonso, and with whom I was somewhat intimate. When I received that letter from my brother I did not know the day on which my father would arrive. I went
169 to Barcelona a few days before, and met this gentleman at the hotel where he stopped. When we met, he said, "What are you doing here?" and I answered, "I have come to meet my father," and he said, "I have come here on business" and then he made certain promises to me, and we held a conversation substantially as stated in my letter.

Q. Here you say in your letter, "The king's brother-in-law was so kind that when he learned that my father was sick he came to visit him, and advised him before taking any further steps to consult a specialist, whom he could find only in Paris, as he knew by experience how ignorant the Spanish physicians were."

A. I am going to explain that. That gentleman generally did not associate with anyone, but when he learned that father was there he expressed his desire to visit him. My father was in the parlor. He could not move; there was hardly any life in him. He desired to visit my father, and advised me what I should do with reference to his sickness. He visited my father, which was something exceptional with him, and in the presence of all advised us to take him to Paris, where the most eminent physicians were to be had. He said,

"You have made the sacrifice of bringing your father in this condition from the Philippines, and Paris being so near you should take him there, for there is a great difference between the physicians here and the physicians in Paris; and as it is only a matter of a few hours you should take him there." He added that his father had suffered from the same infirmity, and that he knew by experience what the nature of that infirmity was. He told us that undoubtedly
170 my father would improve somewhat; that this disease had a well known termination, but he gave us to understand that in Paris he would be able to improve a little and prolong his life.

Q. Did that gentlemen, who, you say, was the King's brother-in-law, speak to your father?

A. We made every possible effort to stand him on his feet and make him walk. He had to drag his right side. The only part which he could move at all was the left leg. Then I sat him on a chair. When I addressed my brother I naturally tried to imitate my father's voice, for from the first moment I realized my situation, knowing as I did that all my brothers and sisters and myself were subject to orders from the Philippines; but that was unbearable; so I decided to assume my father's authority, and it was under this authority that we did what we did, as we were all interested in his health and recovery of his mental faculties, so that he might again assume control of the family and guide the same as theretofore. I knew how much weight my opinion had with him in all matters relating to the family.

Q. Then you cannot say wh-ther or not that gentleman talked to your father on that occasion?

A. No, sir. All that my father did was to babble a few words.

Q. With reference to the contents of that letter, wherein you said, "Father has decided to go to Paris the day after tomorrow, leaving here in the evening, to obtain the opinion of the prominent doctors of that city and to follow their prescriptions as to waters, et cetera. Thereafter we will come back and join the girls, whom we will leave in the meantime in the new house we have taken." Have you any explanation to give in regard to that?

171 A. I think I have already testified upon that point. My sister Carmen, the children and myself, having all decided, in view of my father's situation, that I should go with him to Paris, and that the girls should remain there—as I say, that is what we decided; for although we had to wait for orders and could not take any steps without the authority of my brother Francisco, I did not wait for instructions from him, because this was something that we had to do right away, and that is the reason why I said that my father had decided to do so; otherwise, we would have had to wait before taking any definite action. This being a question which affected my father's health, I decided not to await instructions from the Philippines.

Q. On that occasion, and with reference to that part of the letter which I have just read to you, did you inform your father of the action taken by you?

A. No, sir. The girls and myself agreed to *take* this matter over in his presence, as though he were in possession of all his senses.

Q. Did he indicate to you, by signs or movements, his opinion about what you were talking of?

A. We talked and explained what should be done, and told him that he should go, and he indicated his approval or disapproval by a motion of his hand.

Q. That decision that you referred to in your letter was taken by your father and communicated to you by signs?

A. We communicated to him by signs what we had decided to do.

Q. Did he make any signs to you?

172 A. He had no will-power; he was otherwise free.

Q. Have you anything else to say with reference to that letter?

A. Nothing else.

I certify to the correctness of the foregoing testimony.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

173

JUNE 6, 1902.

Continuation of the testimony of RAFAEL ENRIQUEZ.

Questions by Mr. CHICOTE:

Mr. Chicote read the letters dated Paris, June 1st and June 28th, 1883, attached to the record of case numbered twenty-one, instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public document, copies of which said letter are marked Exhibits 10 and 11 of the said case.

Mr. MONTAGNE: Mr. Rafael, do you remember the circumstances of having written to your brother Francisco on the 1st of June, 1883, from Paris, the letter which Mr. Chicote has just read?

A. Yes, sir.

Q. Do you remember the circumstances of your writing the second letter read by Mr. Chicote and dated Paris, 28th of June of the same year?

A. Yes, sir.

Q. In the letter written by you to Francisco Enriquez, from Paris, on the 1st of June, you said, "I am very glad we decided to do as were were told, for it seems that father has very much improved during the two days we have been here," adding, "He goes out for a walk every day with me, and with very little difficulty he climbs and descends the steps to the room on the second floor which we occupy." Can you explain to us how you came to write that letter, and the purpose of it?

A. I have stated from the beginning the circumstances in which I found my father at Barcelona. His condition compelled

174 me to take that attitude. The contents of the letter will explain to you the true relations which existed between my brother and myself. You will notice that I was always trying to

get him some official position or other. That was my situation in Barcelona. On the one hand, my brothers and sisters would do nothing but what he would order from Manila, and on the other hand, when I met my father I noticed that he could not take action on any matter at all, on account of his mental condition, and realized that we all had to obey my brother's orders and the orders of my uncle, the Marquis of Villacastel, who had repeatedly told me to comply with the instructions of my brother Francisco, whom he said we should not antagonize, because he was the man with the money and could at any time refuse to make further remittances. I also noticed that in his letters he spoke as though my father could understand certain things, speaking of such matters and addressing the letters to him as though he could read them. I knew that such a thing was impossible for him to do, and that it was a mere delusion on the part of my brother. I nevertheless longed to see my father recover his mental faculties entire. I greatly resented being in this situation, considering my father's condition. I also deluded myself in this respect; I did not want to tell the truth as to my father's situation, and would write and make it appear that my father was well and understood everything. This I also did in the hope that some day he would recover entirely and then settle this question. I expected that they would blame me for all this, particularly being so far away. After all, I was nothing but a
175 stranger there, and I have already said that I wanted to make myself believe that my father was well, so as to avoid any disappointment on the part of my brother and thus prolong the matter, telling him that my father was much better than what he really was. I continued to write to him in this strain. This was substantially true, but I must admit that I somewhat exaggerated. My father improved very much while in Paris, and that is the reason why I told him in my letter that he could climb up the steps to the second floor. In Paris, the houses have what is called a ground-floor, and right on top of that is the second floor, where we lived; so that he did not have to clim- up so many flights of stairs, because, as I have said before, the first floor is on a level with the ground and the second floor is not very high above the ground; as a matter of fact, he had to climb only to what one might call the first floor. The house we had I took at the suggestion of the doctor. Notwithstanding all this, and that our apartments were on the second floor, we might say that it was in reality but the first floor, with but very few steps, which my father could ascend and descend, as I have said before, helped by me, not in the manner stated in my letter but approximately in that manner. I use- to take care of him, and that improvement of which I spoke in my letter was deliberately opposed to the truth; for the fact is that when we met in Barcelona I was an absolute stranger to my brothers, having gone to Europe when I was very young and not having seen them for a long time. Some of them had never seen me before. When I arrived at my father's house in Barcelona they looked at me as a stranger and recognized nobody but my father. They had money, but
176 knew absolutely nothing—I asked them how much they had to pay, but they knew nothing. I had to tell them, "You

have to pay" so-much for this or that bill." It was about this time that we decided to go to Paris. Then my sister gave me a draft of five thousand odd dollars, for expenses. I had absolutely nothing to do with the manner in which they spent their money. I did not know anything about their habits. They had made their own arrangements, and further I noticed that my brother was the one who controlled everything, as was later confirmed to me by the threats of my uncle, the Marquis of Villacastel. I went to deposit the money in a bank in Paris, and when I decided to sever all connections with them, because it was absolutely impossible to get along with them, I turned over whatever money there was left in the bank. I was unable to pay this money to my father, because he could not take charge of the same, and I then delivered it to my sister, from whom I obtained a receipt for the balance of my bank-account, and for all other papers connected with the disposition of the money. All this will show to you that the head of the family had no control over them, as shown by that letter. I wrote that letter under very trying circumstances. I asked my brothers and sisters to come to me, but they did not come, and kept the money. When all danger had passed they refused to be advised by me. As I had some accounts to render, and nobody seemed disposed to do anything, under the circumstances I decided to seek the advice of competent persons as to what I should do with reference to these family affairs; and these persons pointed out to me the remedy. Nicolas Salmeron, a prominent Spanish lawyer, who had been Prime Minister
177 of Spain, was in Paris at that time. This gentleman was at the time engaged in making a partition of the property of Queen Cristina. I went to him and told him about my father's situation, and of what would finally happen to my brothers and sisters. I told him all about our family affairs, and with all the data with which I furnished him he said, "I have examined all those documents. They give me an idea of your father's situation. Your father's situation is abnormal, and there shouod be appointed an irreproachable guardian to take charge of all his property, but before you can do this it is necessary to have him declared incompetent by the court. In order to attain this you may secure the certificate of the doctors who have been attending him, duly authenticated, that you may present the same to the authorities and judges as evidence of your father's incapacity. No one can certify as to your father's incapacity except those who have treated him. You may also secure a certificate from the local authorities as to the identity of the physicians signing the certificate." After hearing Mr. Salmeron's opinion, I went to see certain famous physicians in Paris, known all over the world for their works on medicine. Bearing in mind what Mr. Salmeron had told me, I asked these doctors to give me their opinion as to whether my father was capable of conducting his own affairs. Dr. Hortelout, whom I asked whether he would authorize me to have my father execute certain public instruments, told me that he could not give me any such authority, because it was impossible for my father to execute any civil acts, on

account of his complete incapacity. I insisted, and said,
178 "Well, doctor, do you mean to say that my father will never recover, that he will never recover his mental faculties, thus destroying all my hopes?", to which he answered, "Considering your father's age, the symptoms of his sickness, the gravity of the same, and the history of his complaint, it seems to me very plain that your father will never recover his mental faculties." I then said, "Will you state in writing what you have just told me?" He immediately got up and wrote out the certificate in question. That certificate has been introduced in evidence here. The certificate of that doctor is also signed by two other physicians. This I did in order to show how I really acted in the matter. This was the cause of the rupture with my brothers; but with that certificate I felt easy in my mind. I suppose that my brother loved my father as much as I did; maybe that was the cause of his disappointment, but he has no reason to impute to me something that I never did. He knew my father. He always wrote to him about business and other matters, believeing that he was better than he really was. I did not think that I should disappoint my brother by informing him otherwise, particularly when I expected that my father would soon recover, thus putting an end to our situation and assuming control of the family. Hence the reason for my writing the way I did, giving them details from which they might infer what the actual situation was. What I say in my letter about the exposition is true. We always used to take a carriage. We took a carriage when we went to the exposition. I did not want to miss the artistic part of the exposition, and I alighted from the carriage and went into Sculpture Section. Before I left the carriage, however, I left the
179 old man on a large bench there. When I returned I took him back to the carriage and drove away, without seeing the Picture Gallery, because he was not able to climb the steps. This is all that I can say in explanation of those details.

Q. Do you know how old your father was at that time?

A. About sixty-three or sixty-four years old.

Q. You say in this letter that he could climb the steps to the second floor; is that true?

A. Yes. I had *up* support him. He could climb. I had to support him, but he needed no other assistance, as he would help himself with a cane. My father was not very heavy.

Q. During your father's stay in Paris did he improve physically?

A. Before the accident, yes.

Q. Could you see an improvement in his movements and appearance?

A. He had improved on the left side and I did not need to exert myself to- much to assist him.

Q. During your father's stay in Paris was his improvement in health such as to permit him to express his will and to understand what was said to him?

A. He had improved more or less, but not to the extent of being able to understand what was said to him or to write letters. The letter in question was invented by me.

Q. In this second letter you said, "His mind is clearer and he talks to me about everything, particularly about his daughters."

A. I knew that the only one who controlled my brother Francisco was my father, whose authority he could not help acknowledging, particularly in business matters of this nature, about which my father was very enthusiastic. He being in Europe and unable to directly participate in the business, I wrote to my brother, speaking for my father, and my brother answered saying that he no longer owned the mines.

Q. Who said that, Francisco?

A. Yes.

Q. Did they not speak about these mines at your father's house?

A. I knew that my father was very enthusiastic about the mining business, but at the same time I realized that it was impossible to discuss the matter with him. However, I talked to him as though he were not sick, for the purpose of exciting his imagination. In order to have some information to give him on the subject, I read the newspapers to him aloud, to see if it would make any impression on him; and it was in this respect that I wrote to my brother that and other letters.

Q. Is it not true that he also spoke to you about that matter?

A. No, sir.

Q. After your father left for Spain, do you know whether he complained with regard to the letters written during the months of April, May and June, and the first letters from Barcelona: do you know whether the letters of Francisco Enriquez were received? (Translator's note:—Question otherwise unintelligible.)

A. The only thing I can positively say is what I have already stated about the mines. I have no recollection as to the other matters. If I made that statement in my letter it was true.

Q. Have you any letters in your possession addressed to your father with reference to the general administration of his property and that particular business to which you referred?

A. No, because when I left home I took the letters and either gave them to my sister Carmen or left them at the head of my father's bed.

Q. Do you remember what those papers were?

A. They were certain letters with reference to repairs and expenses. They also contained something about the Gomez matter. There was another letter from Morales, addressed to my father, demanding the payment of a certain amount of money, and as there was nobody there who could attend to this matter I attempted to answer the letter, by reference to other papers which had been delivered to me by my sister Carmen. In order to avoid arousing suspicion as to my acts I took my father's hand in mine and had him to sign the letter. I could not get him to make his signature correctly: his hand was very stiff. I made every possible effort to show that my father had in some way taken part in that letter.

Q. What papers did you leave at the head of your father's bed?

A. Those papers to which I have just referred. They were letters received in Paris with reference to those matters.

Q. Was your sister Carmen in Paris when you left the house?

A. Yes, sir. I had been feeding my father, and went downstairs and left the house.

Q. Why did you leave those papers at the head of your father's bed and not deliver them to your sister Carmen?

182 A. He had by his bed a little table, with some small drawers where I used to put the papers, and I left these letters there, that they might read them after I had left. When my uncle arrived I had just finished giving my father his broth, and I immediately went downstairs and left the house.

Q. Did your father speak French?

A. Yes, for he was born in Paris.

Q. How long was he in the Philippines?

A. Forty years.

Q. Did he go back to Spain?

A. Yes, sir.

Q. Did you consider the climate of Paris beneficial to his health?

A. I would not say that it was beneficial. What I can say is that I was sick all the time I was in Madrid, but while in Paris I always enjoyed good health. My idea was that my father should spend every winter in some place in the south of France, to be designated by the doctors, where the climate was mild.

Q. In September, 1883, did you have any relations with Manual Enriquez?

A. I could not have had any, because the night after my father's arrival in Barcelona there was a rupture between Manuel and myself.

Q. Did you not have anything to do with him?

A. No.

Mr. MONTAGNE: That is all.

Mr. Chicote then read the letter of the 30th of September, 1883, written from Paris. (This letter appears on page 41 of the

183 case instituted against Francisco Enriquez, in the Court of First Instance of Binondo, for making a false statement in a public document, and marked Exhibit "12.")

Mr. MONTAGNE: This letter of the 30th of September, 1883, signed "Antonio"—who wrote this letter?

A. I wrote it.

Q. Is that your handwriting?

A. Yes, sir.

Q. Did your father dictate that letter to you?

A. Impossible.

Q. Did he dictate that letter to you?

A. No.

Q. How did you come to write that letter?

A. To give more authority to my father's orders I resorted to the method of taking his hand and signing the letter. Notwithstanding all my efforts to imitate his signature I failed and could not write

more than the word "Anto." My idea was to show that my father had taken a direct part in that letter.

Q. This signature to the letter of the 30th of September, 1883—state who made that signature?

A. I did, placing the pen in my father's hand, but I did not succeed very well in making his signature, because his hand was very stiff. My object, however, was to show that he had taken part in the preparation of that letter, and to give an idea as to his condition.

Q. Are you acquainted with your father's signature?

A. Yes, sir.

Q. Could you identify your father's signature?

184 A. Yes, sir.

Q. I will show you this document. The document which I now show you may serve to illustrate the handwriting and signature of your father (exhibiting to the witness a sheet of paper, signed at the bottom "Antonio"): whose signature is this?

A. My father's signature.

Q. Is this your father's handwriting?

A. Yes, sir, and the envelope is here.

(Mr. Montagne then offered in evidence the document exhibited to the witness for a comparison of the handwriting and signature of the other letters attached to the record.)

The COURT: The letter in question is admitted in evidence, with the consent of counsel for the defendant. (Letter marked Exhibit "H.")

Q. Do you know whether you- father sometimes would sign "Antonio" and at other times "Anto."?

A. My father in all public documents always signed his full name. It is the custom of members of families of high rank to sign only their Christian name in private family letters. When my father wrote to his sons or daughters it was his custom to sign "Anto."

Q. Why did he not sign "Antonio Enriquez"?

A. Because it is the custom of people of a certain rank not to sign the surname when they write to their family.

Q. Was it customary for your father to sign his full name in his letters to members of his family.

—. It is very common for people to sign only their Christian

185 name when they write to their family. I attempted to write his name "Antonio," with all its letters, but the stiffness of his hand did not permit of my doing so; and that is why I simply signed "Anto."

Q. If such was the custom, why did you not write his whole Christian name, so that your brother would see that the letter had actually been written by your father?

A. I could not do it any better. I knew that my brother was familiar with my father's handwriting. I was unable to imitate his signature. I simply placed the pen in his hand, and his hand being so stiff I was unable to complete his name.

Mr. Chicote then read the testimony given by this same witness in

the case instituted in the Court of First Instance of the City of Manila, before the Honorable William A. Kincaid, which said testimony he offered in evidence. (This testimony appears on pages 118-144 of the record of case numbered twenty-one, instituted against Francisco Enriquez for making a false statement in a public instrument.)

Mr. CHICOTE:

Q. This letter, dated September 30, 1883, is the letter to which you referred in your testimony?

A. It must be.

Mr. CHICOTE: I introduce the letter written by Antonio Enriquez to his son Francisco and signed "Tula," dated Barcelona, March 31, 1884. (The letter in question appears on page 28 of the record of case numbered twenty-one of the Court of First Instance of Binondo, against Francisco Enriquez, for making a false statement in a public instrument. Copy of the said letter is attached to this record and marked Exhibit "6.")

Q. I wish to know whether this is your sister's handwriting and signature.

186 A. I believe so; I think it is her handwriting; it looks like it.

Mr. CHICOTE: I ask the Court to have this document attached to the record.

Mr. MONTAGNE: I object to the admission of this document in evidence, as incompetent and immaterial, there being direct evidence that the letter was written in that form, and as merely hearsay.

The Court admitted the letter in evidence.

Mr. MONTAGNE: Exception.

Mr. Chicote then introduced in evidence two letters, dated Barcelona, September 20, 1883, one of them signed by "Tula" and addressed to Francisco Enriquez. (A copy of this letter is attached to this record and marked "Exhibit "16"; the original of the same is attached to the record of Case No. 21, against Francisco Enriquez.)

(The letter dated Barcelona, January 31, 1884, signed "Carmen" and addressed to her brother Francisco, is attached to the record of Case No. 21 above referred to. A copy of this letter is attached to this record, marked Exhibit "13.")

Mr. Montagne objected to the admission of these letters in evidence.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q. Can the witness state whether this is the handwriting of his sister Carmen?

A. I think it is.

Mr. MONTAGNE: I object to the admission of this letter in

187 evidence, as incompetent and immaterial, it having been written by a person who is not a party to this action.

The COURT: The person who wrote that letter is one of the heirs of the deceased Antonio Enriquez, and having an interest in this action the letter is admitted in evidence.

Mr. MONTAGNE: I except to the ruling of the Court. I also object to the admission of this letter, signed "Tula," for the reason that it is incompetent and immaterial, having been written by a person who is now living, and further, because it has no bearing on this case, and its contents cannot be either explained or contradicted by the plaintiff.

The COURT: The letter is admitted in evidence.

Mr. MONTAGNE: Exception.

Mr. Chicote then offered in evidence two letters, dated Guadalajara, May 29, 1883, and July 30, 1883, signed by Manuel Enriquez and addressed to Francisco Enriquez. Copies of these letters are attached to the record, and marked Exhibits 15 and 16.)

Mr. CHICOTE:

Q. The witness will now please state whether these two letters of the 29th of May, 1883, and the 30th of July, of the same year, are in the handwriting of his uncle Manuel Enriquez?

A. I seldom corresponded with him, and I cannot say whether they are in his handwriting or not.

Q. Do you think they are in his handwriting?

A. I cannot say.

Q. I now ask the court that notwithstanding the fact that the witness has refused to identify these letters they be attached to
188 the record. I will introduce evidence for their identification.

Mr. Montagne objects to the introduction of these letters in evidence.

The COURT: Under the provisions of Section 328 of the new Code of Civil Procedure, the Court does not consider these letters, written by the uncle of the witness, as incompetent, but counsel for the defendant has the right to have the said letters attached to the record, not as evidence but in order to secure the ruling of the Supreme Court upon the question of their admissibility, in the event that the case is taken to the Supreme Court.

Mr. MONTAGNE: I except to the ruling of the Court.

Mr. Chicote then read the letters marked Exhibits "13" and "14" of this record.

Mr. MONTAGNE: You have just heard Mr. Chicote read the letter of your sister Carmen: can you give me an explanation with reference thereto?

A. It is very disagreeable and painful for me to talk about the matters contained in that letter. This was a family secret. As they paid for all that, I had to follow the instructions given me. I could not deviate from them without new orders from Manila. These are details of which I would rather not speak.

Q. Do you know whether Francisco Enriquez is the attorney in fact for Carmen Enriquez?

A. Yes, sir; she is the only sister whom he represents.

Q. Do you know whether he represents anybody else, outside of his wife?

189 A. No, sir.

Q. While you were in Europe, and during your stay there, until the time when you wrote to Francisco, did you know the latter's wife?

A. No, sir.

Q. Did you ever know her personally?

A. I had not; I had simply communicated with her by letter.

Q. Can you state whether your father habitually used the right hand or the left hand?

A. No, he was not left-handed; he always used his right hand.

Q. During your father's last illness here in Manila were all his children, except you, with him?

A. The only brother who was absent was George, he having gone to the provinces to look after the mines. I suppose that all the other brothers and sisters were with him, although it may have been that Cayetano occasionally left town.

Q. The others, with the exception of your brother George, who you say was at the mines, were with your father?

A. Yes, sir.

Q. I think you have already stated your father's age, have you not?

A. Yes, sixty-three or sixty-four years.

Q. When were you in Paris?

A. In 1883.

Q. Do you know anything about the letter read here, written by Gertrudis?

A. I did not know anything about it until it was introduced in evidence. I presume that that letter would have been written

190 later, because Mr. Salmeron had so informed me when I wrote to him about these matters.

Q. Did you know anything about the letter written by your Sister Carmen?

A. No, not until it was introduced here in evidence.

Mr. MONTAGNE: That is all.

191 PLAINTIFFS' EXHIBIT "16."

I, Hipolito Arceo, Parish Priest of this town of San Miguel, District of Manila, do hereby certify that on Page 123, Book VI, of the Registry of Baptisms of this parish, the following entry appears:

"On the eighth day of September, eighteen hundred and fifty-eight, I, Fray Juan Antonio de Llerena, a preacher of the Gospel and Parish Priest of this District of San Miguel, solemnly baptized Maria del Carmen Máxima Enriquez, a girl seven days old, the legitimate daughter in lawful wedlock begotten of Antonio Enriquez and Ciriaca Solis, Spaniards, the godfather being Rafael Enriquez, who was informed of the spiritual relationship thereby created between

them. In witness whereof I sign hereon, on the date above mentioned.

(Signed) FRAY JUAN ANTONIO DE LLERENA."

The foregoing is a true copy of its original, to which I refer. Parish Church of San Miguel, this second day of May, 1905.

[SEAL.] (Signed) HIPOLITO ARCEO.

192 PLAINTIFFS' EXHIBIT "17."

I, Hipolito Arceo, Parish Priest of this District of San Miguel, City of Manila, do hereby certify that on Page 157 of Book VI of the Registry of Baptisms of this parish, the following entry appears:

"On the eleventh day of December of the year eighteen hundred and fifty-eight I, the undersigned Parish Priest of San Miguel, did solemnly baptize in this church under my charge a child twelve years old, which was named Cayetano, Saturino Enriquez, the legitimate son in lawful wedlock begotten of Antonio Enriquez and Ciriaca Solis, Spaniards and residents of this town, his godfather being Francisco Enriqurz, a resident of this town, who was advised of the spiritual relationship and obligations thereby created. In witness whereof I sign hereon.

(Signed) FRAY CARLOS TENA."

"(MARGINAL NOTE.—The surname of the child to which the foregoing refers is Villanueva, and not Solis as erroneously stated, as per an order of the Ecclesiastical Tribunal dated this date and noted on the Book of Orders and Decrees of this parish, and by direction of the said Tribunal I make this marginal entry, on this 5th day of June, eighteen hundred and seventy-eight.—Fray Facundo Gonsalez.")

The foregoing is a true copy of its original, to which I refer. Parish House of San Miguel, this 2nd day of May, 1905.

[SEAL.] (Signed) HIPOLITO ARCEO.

193 PLAINTIFFS' EXHIBIT "18."

I, Calixto Villafranca, Acting Parish Priest of the District of Quiapo, City of Manila, do hereby certify that on Page 57 of Book IX of the Registry of Baptisms of this parish, the following entry appears:

"On the eleventh day of June, eighteen hundred and seventy-five, I, the undersigned parish priest of this District of Quiapo, did solemnly baptize in this church of Saint John the Baptist, under my charge, a girl eight days old, who was named Trinidad, Francisco Enriquez y Sequera, the legitimate child in lawful wedlock be-

gotten of Antonio Enriqurz y Sequera and Ciriaca Villanueva, Spanish residents of this district. The godmother of the child was Dolores Enriquez y Sequera, unmarried and a Spanish resident of these Islands, who was by me advised of the spiritual relationship thereby created. In witness whereof I sign hereon.

JOSE M. GUEVARA."

The foregoing is a true copy of its original, to which I refer. Parish House of Quiapo, May 2nd, 1905.

(Signed) CALIXTO VILLAFRANCA.

194 PLAINTIFFS' EXHIBIT "AB."

I, José Maria Guevara, Parish Priest of this District of Quiapo, Manila, do hereby certify that on Page two hundred and forty-four, Book Five, of the Registry of Marriages of this parish, the following entry appears:

"On the ninth of June eighteen hundred and sixty-five, I, the undersigned parish priest of this District of Quiapo, dispensing with the reading of the bans provided for by the Holy Council of Trent, and there being to my knowledge no impediment thereto, joined in marriage, on the eighteenth day of September, infacie eclecie, according to the rites of our Holy Mother Church, in this parish, Antonio Enriquez y Sequera and Cirica de Villanueva y Sierra, the former being the son of Francisco Enriquez and Gertrudis Sequera and the latter the daughter of Juan de Villanueva and Maria del Carmen de Sierra. In witness whereof I sign hereon in the presence of the Reverend Eusebio de Leon, Fray Juan Martinez of the Order of San Juan de Dios, Lucia de Villanueva and Maria Infante, witnesses.

JOSÉ M. GUEVARA."

The foregoing is a true copy of its original, to which I refer. Parish House of Quiapo, September 30, 1868.

(Signed) JOSE M. GUEVARA.

195 Number Eight Hundred and Eighty-three.

In Manila, this 20th day of November, 1897, before me, Enrique Barrera y Caldes, Doctor of Civil and Canonical Law and a Notary Public in and for the city of Manila, personally appeared, Francisco Enriquez y Villanueva, an attorney-at-law, of age, married and a resident of this city, with personal cedula of the 6th class No. 96273, issued by the Administration of Public Finance of this province, in his own behalf and in behalf of Carmen Enriquez y Villanueva, as attorney in fact for the latter, as appears from the power of attorney conferred upon him in the city of Alcada de Henares on the 11th of September, 1896, before the Notary Public Mariano Bergua y Perez, which said power of attorney he states has never been re-

voked, suspended or limited, and the pertinent part of which is quoted at the end of this instrument.

Rafael Enriquez y Villanueva, an artist by profession, of age, married and a resident of this city, with personal cedula of the 6th class No. 99578, issued by the Administration of Public Finance of this province, in his own behalf, and as attorney in fact for Cayetano, Gertrudis, Rosario and Trinidad Enriquez y Villanueva, according to the power of attorney conferred upon him in the city of Madrid on the 16th of November, 1895, before the Notary Public Pablo Pedro Vich y Farrer, which said power of attorney he states has never been revoked, suspended or limited, the pertinent part of which is quoted at the end of this instrument.

Antonio Enriquez y Villanueva, unemployed, of age, married and a resident of this city, with personal cedula of the 6th class No. 97230, issued by the Administration of Public Finance of this province, in his own behalf and as attorney in fact for Con-
196 cepcion Enriquez y Villanueva de Gascon, according to a power of attorney conferred upon him in the city of Kobe, Japan, on the 26th of October, 1896, before Mr. F. W. Playfair, the Acting British Consul and Charge d'Affairs for Spain at the said city, evidenced by a public instrument No. 559 executed before me on the 2nd day of August last by the said Antonio Enriquez y Villanueva who states that the said power of attorney has not been revoked, suspended or limited, the same being inserted at the end of this instrument.

And Carmen de la Cavada y Salaver, married to the said Francisco Enriquez y Villanueva, of age, and a resident of this city, with personal cedula of the 9th class No. 125,910, issued by the Administration of Public Finance of this Province. The said Carmen de la Cavada y Salavert appears as assignee of the hereditary rights of Jorge Enriquez y Villanueva, under and by virtue of a conveyance of the said rights executed in this city before — on the 15th of April, 1886, which said instrument will be attached at the end of this document.

And the parties having in my judgment the necessary legal capacity to execute this instrument, nothing to the contrary to me appearing, Carmen de la Cavada y Salavert having first obtained the necessary permission from her husband in order to execute this instrument, to which I certify, freely and of their own will said:

That by a public instrument, No. 537, executed in this city by the said Francisco, Rafael and Antonio Enriquez on the 25th of August, 1896, before Jose Engracia Monroy, a Notary in and for this city, which said instrument the parties hereto and each one of them ratify in the capacity in which they execute this instrument,
197 agreed that the estates of their deceased parents Antonio Enriquez y Sequera and Ciriaca Villanueva were then and at that time pending the formation of inventory of the property of the said estates, the examination and approval by the participants therein, of the accounts submitted by the executor and the determination of the particular property which belonged to the said estates, and that for the purpose of making a partition of the said estates it was agreed

among other things, first that Rafael and Antonio Enriquez should proceed to examine the accounts of the estate for the years 1884 to June 30, 1896, as submitted by Francisco Enriquez, the executor under his father's will, and the accounts for the year 1883 submitted by him as attorney in fact for his father during that year, which said examination was to be completed within a specified time, and in case of any objections thereto they should settled in accordance with the rules laid down in the instrument in question, and second that the said Francisco as such executor would present and submit to his two brothers above mentioned a list of all the property of the estates so that they could examine the same in the manner prescribed in the said instrument.

That these resolutions have been carried out by the parties hereto, Rafael and Antonio Enriquez having duly examined the said accounts as to which they presented various objections which have been treated in accordance with the terms of the agreement and they hereby stipulate that the accounts of the executor from 1884 to the latter part of June, 1896, and the accounts of his administration of his father's property during the year 1883 be recapitulated as follows:

Debit.

198 1st. Amounts collected by Francisco Enriquez y Villanueva from the beginning of the year 1883 to the 30th of June, 1896, as the administrator of his father Antonio Enriquez during the first year and as executor of his said father since 1884 until the said month of June.....	$216,401.97
2nd. For the purchase price of a piece of property on the Riverita, in the District of Binondo, belonging to the deceased Antonio Enriquez and which was sold on the 12th of March, 1884, by Francisco Enriquez as attorney in fact for his father.....	2,500.00
3rd. For the dividends received during the period of his administration on the shares of the Hong Kong and Shanghai Banking Corporation belonging to the estate	1,500.00
Total	$220,401.97

Credit.

Sums paid by the said Francisco Enriquez in his double capacity of executor and attorney in fact during the same period as follows:

1st. Remitted by draft to the deceased Antonio Enriquez during the year 1883.....	$5,318.00
2nd. Idem idem to Manuel Enriquez during the year 1883 for Antonio Enriquez and his family.....	2,000.00

3rd. Sums remitted in 1884 to the said Manuel Enriquez for the same purpose 6,725.00
4th. Taxes on the six pieces of property belonging to the estate 6,687.85
5th. Municipal tax known as "Cleaning and Lighting" on the said property 2,666.85
6th. Interest and principal on the mortgage upon the property known as the old theater, in favor of the Junta Administradora de Obras Pias, paid in 1883 ..... 1,000.00
199 7th. Principal and interest on the mortgage in favor of the Obras Pias on the house on Calle Palacio No. 3 paid during said year 3,457.88
8th. Interest on the mortgage in favor of the Obras Pias on the building known as the old theater for the period from 1884 to 1896 at the rate of $449.71 per annum 5,846.03
9th. For interest on the mortgage in favor of the Corporation of Recoletos Friars due for the period from 1883 to 1886, inclusive, at the rate of $550.00 per annum 6,300.00
10th. For interest and principal on the mortgage in favor of the Dominican Friars for the period from February, 1883, to February, 1896, at the rate of $372.00 per annum 5,208.00
11th. For interest on the mortgage in favor of the Obras Pias de la Sagarada Mitra for the period from 1883 to 1893 ..... 20,400.00
12th. Expenses incurred in various suits in which the estate was interested 9,765.53
13th. Premium on fire insurance on the properties of the estate known as No. 4 Calle David and No. 14 Escolta 7,337.00
14th. For repairs to the properties of the estate during the years covered by the accounts in accordance with agreement entered into by the parties hereto with reference to the objections made to this item 18,380.70
200 15th. Payment made on the bond executed by Antonio Enriquez, deceased, to secure the indebtedness incurred by Juan Antonio Gomez, in favor of Jaime Carvell 16,322.61
16th. Paid to the attorney in fact of Gertrudis Garcia Camba, Marchioness de Fuente Piedra, as her share in the estate of Francisco de Paula de Enriquez, Conde de la Puebla 8,536.15
17th. Paid to Encarnacion Aranda, Countess of Humanes, in settlement of Cayetano Enriquez y Sequera's interest in the aforesaid estate 6,000.00
18th. Paid to the architect, Juan Caballeros for the appraisal of the property of the estate 610.91

19th. Commission due Francisco Enriquez for his administration of the property at the rate of 5% of the sums collected by him	10,810.00
Total	$143,373.73
Debits	$220,401.17
Credits	143,373.34
Balance due	$77,028.63

Third, that the entire balance due is not now in the hands of the executor for during the period of his administration he has made payments to his brothers and co-heirs on account of and as advancement upon their shares, which said advances appear in the personal account which he keeps with each particular heir. These accounts will be submitted to them for examination and approval without delay, that the balance due may be determined and the partition of the estate made as soon as possible.

201

Fourth. That the parties interested in the estates of Antonio Enriquez y Sequera and Ciriaca Villanueva y Solis re-resented by the parties to this instrument hereby approve, error or omission excepted, the accounts of the administration of the property of the former during the year 1883 and those of the property of their estate from the year 1884 until the 30th of June, 1896, submitted by Francisco Enriquez y Villanueva in the manner in which the said accounts are here set forth.

The parties interested, represented by the parties to this instrument, hereby stipulate that the balance of their individual accounts as well as the balance of the accounts of the executor be considered as debits and as advances made upon their respective shares in the estate and that each one of them be charged with the amount received by him on account of his share in the estate.

The accounts of the estate having been settled, which was necessary in order to proceed to preparation of inventory of the property of the estate, the parties hereto now proceed to make such inventory in the following manner:

Inventory and Appraisal of the Property of the Estates of Antonio Enriquez y Sequera and Carmen Villanueva y Solis, Deceased.

1. Cash. There is in the hands of the executor as the proceeds of the sale of the household furniture of Antonio Enriquez, which said furniture was sold at public auction by Genato & Co., as per account rendered by them April 28, 1885		$1,069.15
2. Furniture. In the hands of the executor:		
9 family pictures with frames	$180.00	
1 painting representing the Herodias	100.	
1 idem, Neopolitan scenes	50.00	
2 idem, religious subjects	40.00	

202

1 idem, St. Francis..... 30.00
1 iron safe..... 200.00
1 small wardrobe..... 10.00
1 idem 10.00
1 big wooden box..... 6.00

All in the possession of the heirs Rosario, Gertrudis, Trinidad and Cayetano.

The furniture specified in the foregoing list which the deceased used in his own house in Madrid, is valued at..... 500.00

3. Real Estate:

A lot on Calle Misericordia, District of Sivecon, Santa Cruz, City of Manila, without number, having a superficial area of 737 square meters; bounded on the front by the said street; on the right of its entrance by the property of Jose Maria Venegas; on the left by the property of Eustaquio Tolentino; and on the back by an estuary. This property was acquired by Antonio Enriquez at a public auction held by the Auctioneer J. Mestres..... 1,000.00

Another lot on Calle Palacio, Intramuros, in the city of Manila, No. 12, on the corner of Calle Anda, having a superficial area of 1503.15 square meters; bounded on the front by the said Calle Palacio; on the right of its entrance by the property of Francisco Esquimel; on the left by Calle Anda and the College of Santa Ysabel and on the back by the property of Jose Aguirre; on the said lot there is a house of brick and stone with galvanized iron roof, being a two-story building, the whole property having been valued at..... 29,890.93

203 Another lot on Calle Palacio, Intramurus, in the city of Manila, No. 43, with a superficial area of 1384.74 square meters, being bounded on the front by the said street; on the right of its entrance by Calle Fundicion, also known as Calle Muralla; on the left by certain property belonging to the Sagrada Metra and on the back by house No. 1, Calle San Jose, belonging to Juan Valera, and the property of Jacinto Harrera; on which said lot there is brick and stone house with two stories, valued at 19,223.43

Another lot on Calle Audencia, of the district of Intramuros of this city, No. 33, having a superficial area of 1401.40 square meters. It is bounded on the front by the said street; on the right of its entrance by the property of Carmen Barredo; on the left by the property of Rita Vizmanos; and on the back by the property of Elena Barrera. There is upon the said lot a dwelling house on stone and brick con-

struction, with galvanized iron roof the whole property being valued at..... 16,089.15

Another lot on the Escolta, district of Binondo, of the city of Manila, No. 14, having a superficial area of 587.38 square meters. It is bounded on the front by the said street; on the right by an alley leading to the sodawater factory; on the left by the prpoerty of Manuel Genato and on the back by the river Pasig. There exists upon the said lot two brick and stone buildings, with tile roofs and two stories, the whole property having been valued at..... 71,760.34

Another lot on Calle David, district of Binondo, city of Manila, No. 6, having a superficial area of 2926.66 square meters. It is bounded on the front by the said street; on the right by the property of Barbara Padilla; on the left by the alley known as Loaira; and on the back by the Sibacon Estuary. There is upon the said lot a two story brick and stone building, with galvanized iron roof, the whole prpoerty being valued at..... 44,512.92

204 Another lot on Calle Dasmarinas, district of Binondo, in the city of Manila, known as the old theatre, having a superficial area of 1567.70 square meters. It is bounded on the front by the said streer; on the right by Calle Ugalde; on the left by Calle Marquina; and on the back by Calle Poblete. There is upon the said lot a 2-story building, the whole property being valued at..... 17,092.15

4. Rights and Actions:

1st. 6 shares in the Hongkong and Shanghai Banking Corporation, of 120 pesos each, face value..... 720.00

2nd. The right to collect from the heirs of Juan Antonio Gomez a debt which is the subject of an executive action instituted by the estate in the Court of First Instance of the district of Binondo, which said debt amounts to..... 44,000.00

3rd. The right to recover from the heirs of Jose Zaragosa the rent from a certain property belonging to Juan Antonio Gomez, upon which property attachment has been levied, the said rent having been paid to Mr. Zaragosa, as receiver..... 3,000.00

The right to recover from Maria Medal and her son the sum of 4,165.25

The right to recover a loan to Honrato Rocamora, in the sum of..... 1,526.50

The right to recover a loan to Maria Hidalgo for the sum of 324.00

The right to recover a loan to Juan Briones in the sum of 400.00

205	The right to recover a loan to Baldomero Rocamora in the sum of	400.00
	The right to recover a loan to Maximo and Bernarbe Gonzalez	90.43
	The right to recover a loan to Perfecto Hidalgo	230.00
	The right to recover a loan to Alejandro Alcantara	1,636.83
	The right to recover a loan to Manuel Panganiban, Remigio Platon and Evaristo Soriano, in the sum of	3,480.40
	The right to recover a loan to Juan Mitra, in the sum of	1,625.00

5th. Liabilities of the Estate:

	An indebtedness in favor of the Obras Pias de la Sagrada Mitra, secured by a mortgage on house No. 14, Calle de la Escolta, Manila	28,000.00
	Idem idem in favor of the same party, secured by a mortgage on house No. 4 Calle David	8,000.00
	Idem idem secured by a mortgage on the house No. 12, Calle Palacio	7,948.00
	Idem idem, secured by a mortgage on the house No. 43, Calle Palacio	8,000.00
	Idem idem, secured by a mortgage on the house on Calle Audencia	8,000.00
	Idem idem, in favor of Junta Administradora de Obras Pias, secured by a mortgage on the house on Calle Dasmarinas	7,495.00
	Idem idem, in favor of the Corporation of Dominican Friars, secured by a mortgage on house No. 12, Calle Palacio	6,200.00
206	Idem idem, in favor of the Corporation of Recoletos Friars, secured by a mortgage on the house on Calle David	7,500.00
	Interest due to the Mitra on loans	43,416.50

7th. The house on Calle David, No. 9, which Rafael and Antonio Enriquez asked to be included in the inventory will not be so included, the parties having so decided in view of the public instrument executed by the deceased before the Notary Miguel Torres on the 27th of March, 1883, whereby the said property was sold and transferred to Dona Carmen, one of the parties to this instrument. The house on Calle Fundicion in the district of Intramuros, which the said gentlemen asked to be included as belonging to the estate of their deceased father, will not be included in view of the statement made by the executor, Francisco Enriquez, to the effect that the same had been sold by the deceased on a date which he is unable to specify with certainty. It is hereby agreed that this matter be postponed until the necessary evidence of such transfer has been duly submitted.

With reference to the payments made to the Marchioness of Fuente Piedra and the Countess of Humanes, Francisco Enriquez stated that the same were made by him as executor of his father's estate, these being liabilities incurred by the said Antonio Enriquez,

deceased, who, as administrator of the estate of Francisco de Paula de Enriquez, Conde de la Puebla, had been paid the proceeds of the property of the estate belonging to the said Marchioness, who
207 was the heir of the intestate of Cayetano Enriquez, also an heir of the said Francisco de Paula Enriquez, Don Antonio never having discharged the said liabilities.

8th. The parties hereto reserve their right to demand that there be included in the inventory any property which hereafter may be found to belong to the said estates.

9th. To determine the actual assets of the estates, the accounts relating thereto, submitted by the executor, will be closed on the 31st of October next, when the final account to be submitted by Francisco Enriquez shall be examined and approved by the parties hereto.

10th. A *ture* copy of this instrument shall be delivered to Jose Moreno Lacalle, Commissioner, that he may proceed to make the partition, and the parties hereto will meet together on a day to be fixed by the said Moreno Lacalle for the purpose of deciding the manner in which the property of the estate shall be distributed among the heirs.

So said the contracting parties in the presence of the witnesses to this instrument, Tomas Aguilen and Zacarias San Pedro, both of age and residents of this city; and this instrument having been read by the contracting parties, they ratified the same, signing hereon, after inserting the documents to which this instrument refers and which are literally as follows:

(Documents inserted.)

The foregoing is a literal copy of the original documents, exhibited by the contracting parties to which I refer. I further certify as to the identity, occupation and residence of the contracting parties.—
Francisco Enriquez.—Rafael Enriquez.—Antonio Enriquez.
208 —Carmen de la Cavada de Enriquez.—Tomas Aguilon.—Zacarias San Pedro.—Dr. Enrique Barrera y Caldes.—True Copy.—Francisco Enriquez.—(Sgd.) Alfredo Chicote.

DOCUMENT No. 24.

In Manila, this third day of November, 1897, at a meeting held in the law office of Attorney Moreno Lacalle by Francisco, Rafael and Antonio Enriquez y Villanueva for the purpose of definitely deciding upon the accounts of the administration of the estate of Antonio Enriquez during the year 1883 and the accounts of the estate of the said Antonio Enriquez and that of his wife, Ciriaca Villanueva, deceased, and making up the inventory of the property belonging to both estates, and after reconsidering previous discussions had upon the matter and deliberating at length about the same, they unanimously agreed as follows. With reference to the account submitted, first, the items for repairs to the property of the estate, and objections thereto, taking as a basis for the agreement of the 19th of December, 1895, between the commissioners Ycaza and Moreno, that the said items be stricken out and that the cost of whatever repairs

which may have been made to the property be ascertained by experts appointed for this purpose, it was decided that in view of the fact that the appraisal of the said repairs would be very expensive and difficult, the executor be given credit for the said repairs in the sum of 18,380.70 pesos, all previous objection to the said item being hereby withdrawn and the matter definitely settled; second, as to the other items of the said account for expenses, etc., it was decided to consider all objections settled and the amount of the said expenses was fixed as stated in the proposed instrument relating to the approval of the said accounts and the formation of inventory
209 which the interested parties have this day agreed upon, which said rough draft will be immediately put into the hands of a notary for the execution of the formal instrument; the accounts being thus settled and definitely approved.—As to the inventory, the same is hereby approved under the terms and conditions as specified in the said rough draft of the proposed instrument in question. There having been included in the general accounts of the executor the amounts which the said executor has from time to time paid to the participants in the estates as advances on their respective shares, which said amounts thus paid should be more properly charged to the individual accounts of each participant, it is hereby agreed that the said advances be excluded from the said account and that a separate account be rendered with reference to each of the said participants so that whatever balance may be due thereon be included in the inventory as assets of the estate, the said separate account to be rendered with reference to the general accounts.—Don Rafael and Don Antonio Enriquez having stated that they understood that the house on Calle David No. 9, another piece of property on the Barraca, both in the district of Tondo of this city, and a certain house on Calle Baluarte Fundicion, belong to the estate and requested that they be included in the inventory, Francisco Enriquez replied that the house on Calle David No. 9 had been sold by his deceased father to Don Francisco's wife for the sum of eight thousand dollars, local currency, according to a public instrument executed before the Notary Miguel Torres on the 27th of March, 1883, a copy of which said instrument he submitted for inspection by the objectors, that the house on Calle Fundicion had also been sold by his father on a date which he was unable to give, not having any record thereof, and that the property on the Barraca or Riverta had like-
210 wise been sold by him, the said Francisco Enriquez as attorney in fact for his father, to Victoriano de los Reyes, on the 12th of March, 1884, for the sum of 1,500.00 pesos, which said amount, plus five hundred pesos, was sent by draft to his father for the latter's expenses, through Manuel Enriquez, as shown by a letter from the latter, which said letter, together with a copy of the instrument of sale, he submitted for examination by the other parties.—Whereupon it was agreed that the request that there be included in the inventory the house on Calle David, No. 9, be and is hereby withdrawn; that there be also withdrawn the similar request with reference to the property on La Barraca, its sale having been satisfactorily established; but that the proceeds of the sale of the latter property be

considered as a charge against the executor, Francisco Enriquez, until he shows that he has remitted to the party entitled thereto an amount equal to the purchase price; and as to the house on Calle Fundicion, the matter is postponed until further data can be secured with reference thereto.—The parties finally agreed that the item of 1,883 pesos in the said account, representing the amount of a draft to Don Manuel Enriquez for the sum of 2,000 pesos, is approved with prejudice to examining such proof as Don Francisco may present with reference thereto.—Upon the terms hereinbefore set out the aforesaid accounts are considered settled, and the inventory of the estates, terminated, and in witness thereof the parties sign these presents in duplicate.—Rafael Enriquez,—Francisco Enriquez,—Antonio Enriquez,—Jose Moreno Lacalle.

211 I hereby agree to buy the house of Gabino Veloso del Rosario, on Calle David, for the sum of six thousand dollars gold, on the terms and conditions set out by Juan Evangelista as attorney in fact for the said Gabino Veloso in a public instrument of conveyance this day executed, which said instrument I retain in my possession, and in pursuance thereof I have paid to him the sum of two thousand pesos earnest money and as proof of the definite consummation of the said contract of purchase and sale.

Manila, June 28, 1871.

(Signed) ANTONIO ENRIQUEZ.

Received from Juan Evangelista the title papers of the house referred to in the foregoing instrument and the power of attorney executed in his favor, which will serve as the basis of the conveyance to be executed in favor of the said Antonio Enriquez.

(On the same date signed.)

FRANCISCO SALANOVA.

State Seal. 1901—One peseta.—II—C. se.—No. 3,135,070.

I., Dr. Bartolome Robert y Yarzabal, Professor of the Fqculty of Medicine of the University of Barcelona, etc. etc., hereby certify that in the year 1883 I treated Antonio Enriquez, who had recently arrived from the Philippine Archipelago. He was suffering at the time from a hemorrhage of the internal capsule which brought about a hemiplege of the right side, the paralysis affecting more his power of motion than his sensibility; but notwithstanding the cerebral injury suffered by the patient and his advanced age, he retains the integrity of his mental faculties in a degree sufficient to control
212 his own acts and enjoy moral liberty. An incidental fracture of the femur, of a traumatic origin, and the subsequent acute pneumonia which he suffered did not tend in any way to aggravate his cerebral affection.

In witness whereof I issue these presents in the city of Barcelona this 12th day of September, 1901.—Bartolome Robert.

I, Manuel Gondar y de la Torre, the Priest temporarily in charge of the parish church of San Geronimo el Real of this city of Madrid,

Do hereby certify: That on page 20 of the Register of Interments of adult persons the following entry appears: In the city of Madrid this 30th day of July, 1884, there died at the age of 64 years Antonio Enriquez y Sequera, a native of Paris, the legitimate son of Francisco and Gertrudes, natives of Antequera, Province of Malaga, and Granada, respectively, and the surviving husband of Ciriaca Villanueva y Solis, a native of Manila, by whom he had eleven children, named Rafael, Francisco, Jorge, Rosario, Carmen, Cayetano, Gertrudes, Antonio, Trinidad, Concepcion and Manuel; he resided at No. 59 Calle Alcalar; he received the holy sacrament of the penitence, communion and extreme unction; he executed a will in Manila and for this reason it is known before what Notary it was executed and who are his executors, leaving as heirs his eleven children above mentioned; he had a fourth class funeral and his body was interred in the Sacramental de San Nicolas in one of the niches. In witness whereof I sign these presents. The foregoing is a true copy of the original entry on record to which I refer. San Geronimo el Real of Madrid, this 22nd day of August, 1884.—Manuel Gondar.—Seal: "Parroquia de San Geronimo, Madrid."

213 The undersigned notary of this city does hereby certify to the genuineness of the foregoing signature of Manuel Gondar y de la Torre, the priest temporarily in charge of the parish church of San Geronimo el Real. Madrid, Aug. 25, 1884.—(Sgd.) Zacarias Alonzo y Caballero.—The undersigned notaries of this city do hereby certify as to the genuineness of the signature and mark of the Notary Zacarias Alonzo y Cabellero, affixed to the foregoing certificate. Madrid, Aug. 25, 1884.—(Sgd.) Magdaleno Hernandez y Sanz.—Francisco G. Archigo. Seal:

214 PARIS, *Feb.* 9, 1883.

MY DEAR FATHER: From Quico's last letter, dated Dec. 30, I learned that God had had compassion on us, sparing your life. I feared and almost anticipated your death and it was this fear that induced me to write the many letters I wrote to you asking you to make a special effort and run away from what was waiting for you there and come to Europe where you can recuperate ans stay here at least two winters if you did not care to stay longer. I am sure that after a short stay in this country, Quico and Antonio, having remained there, would look after your business, and you will find many opportunities that will compensate whatever sacrifi-es you may make in connection with this trip. The recovery of your health at any rate would be a sufficient compensation and you will regret not having packed up last August. This country is so healthy, being the center of the world's business, it is very close to London which is also a big center. While you recuperate your health you can amuse yourself with so many elements of amusements as are to be found here. There are many things which unconsciously afford pleasure ahich

you cannot find there, no matter how long you stay there and how hard you work. I know that this would be possible and feasible, particularly once you have persons of confidence there upon whom you can rely. I can not do it myself for I hardly have time to earn my daily bread and some money, though noy much, is necessary to do this. On the other hand the Queen will come here, either in Spring or Summer, and while she is here if you bring any of the older girls with you, you have no idea what great results in the way of political positions might be obtained if we go about it in the right way. While I have been here in Paris she appointed as her purser a man who had not a cent and who lived in a room on the fourth floor and within that brief space of time he has mamanged to buy big carriages and a large house in the most expensive section of Paris.

215 You must not hesitate about this matter. Make up your mind and leave that country, no matter how painful it may be. This means many years more of life to you. We will be happy even though we have nothing but what is absolutely necessary for your wellbeing; we prefer this to inheriting millions of dollars from you. If you happen to come here in the month of May in the latter part of Spring you will enjoy a very mild Summer and the scenery around Paris which is one of the most beautiful cities in the world. Your loving son who adores you and dreams of embracing you,—Rafael,—147 Avenue de Villiers.

PARIS, *Feb.* 9, 1883.

MY DEAR QUICO: I received your letter of the 30th of December at a time when my soul was oppressed by disappointments and misfortunes, and when I read it I had to weep for it seemed that Providence still has compassion on us, sparing father's life.

I wrote to you and I told you to get Cembrano and all the persons around you, using every means within your power to induce him to come immediately and leave that house because I anticipated what was going to happen to him. I just imagined how much father must have suffered seeing himself alone without mother, surrounded by objects which reminded him of her. I was absolutely convinced that it would be impossible for him to bear all this suffering without succumbing. I told Pardo and I told everybody else about it and as soon as I ceased to receive letters from you, it never occurred to me to ask whether you were sick but whether

216 he had died, and pleaded his death be not concealed from me. Hence the reason why in all my letters I always said something about his coming to this country as the only way to save him and to avoid what has finally happened. Fortunately his life has been saved. I am very glad that you did not read to father any of my letters which could have possibly affected him, for I have said many things under stress of pain and sorrow for not having seen mother for so many years. I did not even have the consolation of giving her a kiss before I left her or of kissing her body after her death; I simply know that my conviction that she was going to die compelled me to constantly advise her to leave the place which

threatened her life for I knew that she was going to die. Since God has spared father's life, even though we lose everything we have, I think it is out duty to take care of his health and bring him to Europe to such place as he may desire. If he spent some time here the Queen's Palace will absorb all his attention and amuse him, and with what I know and what the persons of my acquaintance know we can do much in every way even for yourself in your own career. On the other hand, there being not so much poverty now in this country he will not be robbed as they rob other foreigners here who have to pay double on account of their not being acquainted with the country.

With reference to what you say about Morales, I do not want you to look after this because I can do it myself and I have not sent you the paper you wanted. This winter I except to be able to send him the money with accrued interest, through his father. I except to,
write to him at Manila saying that I have sent the money to
217 his father (who is the depository of this money) such and
such an amount and so much for interest for such and such time, and will add that I had not sent him the money before because he did not give it to me on condition that I should return it to him even if I had to starve my children. I think that he can well afford to wait on a person who has made a picture for his father which is worth more than the money he has loaned me, and for which he did not pay me a cent. I did not want to say anything to you about this until the matter was finally settled. Unfortunately I was lately taken sick and before I could get out of bed one of the damn boys of the doorkeeper had whooping cough and the children caught it from him. They have been so sick that the doctor advised me to take them out into the country where they have been now for about a month. The mother has been in bed for forty-five days. On account of her critical condition I had to conceal from her the fact that the youngest of the children who is now cutting his teeth is suffering from some horrible convulsions which endanger his life and the landlady of the house where the children are want- to put them out into the street unless the board due is immediately paid to her, and I cannot go and see the child unless I take the money with me to pay her. Not knowing what to do, in my desperation I sent a telegram to Bayo for a draft of one hundred pesos which I will send to you through Mr. O'Farrell the last of this month as soon as I finish a certain job on which I have not been able to work very much on account of so many calamities. And here I am, when I though- that I would have money enough to
get along, without a cent on account of all this sickness in
218 a country where I risk my health with impunity, something
I could not do in Madrid, where every-body is in good health and where there is always and immense floating colony of inhabitants of torrid regions, and they prefer to spend their millions in this city on account of its salubrity and great resources.

Fate is stronger than the will of man but I hope that some day I will have, instead of all these troubles, the pleasure of sending to Carmen the wedding present which I owe her, and I hope it will

please her and indemnify you for the many times that my misfortunes have reached you.

With kisses to the children, you and Carmen receive the embrace from your loving brother,—Rafael,—147 Avenue de Villises.

BARCELONA, *May* 14, 1883.

MY DEAR QUICO: I told you in my last letter that I expected with impatience the arrival of the Str. Barcelona. On the 9th I had the great please of embracing father and the girls. Since his arrival I have noticed some improvements in father's countenance and he is more agile now than — he arrived. We have called a good doctor and have decided that he be treated here. We have also taken a very cosy house for which we pay twenty-one pesos per month; it has enough room for all of us; we have also rented the necessary furniture for which we pay twenty dollars and have bought other little necessaries, so that to morrow night we will sleep in the new house.

It was quite a coincidence that in connection with political
219 matters the King's brother-in-law stopped at the same hotel where we were. I knew him personally and he was so good that when he learned that father was ill called on him and advised him to seek the opinion and prescription of a wise man before deciding anything definite; that this man he could only find in Paris for he, (The King's brother-in-law), knew from experience that the Spanish doctors *were* come to Europe were simply brutes and that having made the sacrifice to come to Europe he should see the best doctor to insure a rapid recovery; he also added that he knew this from experience because his father had suffered for about five years with the same complaint. Father has decided to go to Paris day after to morrow, leaving here in the evening, to obtain the opinion of the prominent doctors of that city and follow their prescriptions as to waters, etc. Thereafter we will come back and join the girls who we will leave in the meantime in the new house we have taken. Fortunately the owner of the house who lives in the adjoining room is a friend of father's, having been also a friend of our grandfather; and in the house in front of ours there lives Antonio Carcer with his family who will look after the girls and render whatever assistance may be necessary during our short absence. Uncle Manolo, in order to avoid grieving father, left without saying a word to him and father did not know that he had left until the following day.

Do not forget to send me Carmen's picture. Give my regards to her and to your children and you receive an embrace from your loving brother,—Rafael.—Our present address is Paseo de Gracia, No. 129.

220 PARIS, *June* 1, 1883.

MY DEAR QUICO: We have decided in spite of all, in order to insure his complete recovery, to submit father to the curative treatment which the doctors of Paris may prescribe. Their superior science being recognized all over Europe. It happened that a friend of mine, who is the King's brother-in-law, knowing that father was suffering from the same complaint which his own father did for

many years, advised us to immediately take the train on account of his bitter experience of what had happened to his father with the doctor of Spain. I am very glad we decided to do as we were told for it seems that father has very much improved during the two days we have been here. When we left Barcelona I had to lift him up every time he wanted to move while now he goes out for a walk every day with me and with very little difficulty he climbs and de--cends the steps to the *to the* room on the second floor which we occupy. This he does twice a day and the room has the sanitary conditions the doctor prescribed.

As we have only come here for the purpose of securing the opinion of theses doctors and following their prescriptions, we have provisionally left the girls in Barcelona until we finally decide where we shall all live as father's health may require. He has been advised not to select any place near the sea for his residence but on the contrary to live as far from the coast as possible. Therefore he should not live in Barcelona. The Acuna and the Vicente Arieta families have told us that cases of paralysis are very frequently there and we have noticed this ourselves in the streets, Mamen having called my attention to several cases. This compelled us to leave sooner
than we expected. One morning something strange happened
221 to him which certainly frightened me very much, but
fortunately he got over it. I think this was due to the climate of the country. Father seems to like this place very much. Spain cannot compare with this country. He is very anxious that the girls should come and we expect them to come soon. Be it as it may we have already found a compensation for the trip in the improvement of his health which he will apparently recover entirely in a few months. Father -ends his regards to Carmen and to the children and you receive a tight embrace from your loving brother.—Rafael. —P. S. I cannot write again until the next mail. I do not want father to notice it. I realize your misfortune, and tell Carmen that I greatly sympathize with her. Your loving brother.

PARIS, *June* 28, 1883.

MY DEAR QUICO: We are very impatient because we received no letter from you and have wondered what is the matter. We are so unfortunate that the least thing makes us presume that destiny wants to satiate herself upon us and I hope to God that failure to write is due to negligence on your part rather than to bad health.

As I told you in my last letter, father at last decided to come here and stay as long as necessary to consult the doctors here and follow their instructions rather than put himself in the hands of the savage Spanish doctors. During his short stay here his improvement has been so noticeable that the very satisfaction of seeing
himself well because he could almost climb, without as-
222 sistance, the steps to the second floor on which we live, made
him concieve the idea of sending for the girls a few days after his arrival, being very much charmed with the magnificence of Paris compared with what he had seen before. The doctor advised us to avoid annoying him in the least and to follow the treatment

prescribed for him, plenty of amusement and exercise. As
not dare to say to him that in order to live here it was ne
for us to reduce expenses, considering our present financial
tion, I have endeavored to distract him, taking care of his
and delay the matter of the coming of the girls in the hop
recovery he would change his mind. On the second of this
we went out in the morning and father took a long walk and
afternoon we went to the Exposition of Belle Arts where he
himself very much, admiring everything he saw there. Up
return home that fatality which is beyond the reach of human
and while he was standing near me and as I stopped down
up a pair of rubber shoes to try them on he made a move to
a chair which he thought was nearer to him than it was and
I noticed it and before I could render any assistance he
the chair and fell on the floor. Fortunately he got over th
according to the doctor it is simply a matter of patience.
in bed father has a rosy complexion which he never had
in his better days. But for several days he was in im-inent
with a fever, his pulse being at 130, brought about by a f
which it seems almost impossible to have occur-ed. He was d
and unconsciously evacuated his bladder and bowels in the bed
can just imagine what my agony was being alone. I call
children but they refused to come. The doctor said that if
escaped from this he would have to use an apparatus for three
As soon as father recovered his senses he insisted on my
everybody and I have suffered very much on this acc
223 I did not want him to, know that the children refused
him, and it was of no avail to tell them that father w
sick and that they should obey him. I also told them that i
of the fact that he would not be able to walk for about four
months and the fracture finally cured, it would be ruinous t
on supporting two houses, two cooks and a double set of s
instead of living all in the same house with father as long as
tinued ill and live together with the utmost economy until he
recovered; and then decide where he should fix his residen
course he would not go to Barcelona for he has been advised
live at any place near the coast for this is very bad for an
of paralysis. I sent a person to accompany them on a trip
that they spent as little money as possible on the voyage an
sent him back, refusing to move from Barcelona. Sometim
Mamen come alone bringing another person with her and we
the rest of the girls to come to Paris accompanied by another
I cannot leave father alone in his present condition and canno
to hire a person to go and bring them, the girls, simply
they refuse to come.

This is a catastrophe that God only could have prevented
it was going to happen anyway we were lucky that it happen
where father can be intelligently treated and where we can f
elements which Spain lacks. Do not be uneasy, because the
comes here every four or five days and seems to be surprised
good aspect and good general condition, so much so that son

I have wondered whether he will recover entirely after the fracture is cured.

He has a very clear mind and talks to me about every thing and particularly about the girls.

He told — to tell you that immediately upon the receipt of
224 this letter to ask Nonoy for the best samples of mineral which he may have and to send them to him at once in a box addressed to No. 94 Rue Laugier where he lives near my studio.

I had a conversation to day with one of the big local bankers and he told me that he would attend to this matter, adding that there were certain gold mines in South America the stock of which was sold at a very low price here, but has recently advanced to one hundred thousand franc a share and that if our mines contained abundance of gold nobody can tell how much they will be worth. Now that father is here we can more easily lay the foundation for the successful development of the mines. Do not forget therefore to send us as soon as possible the best samples you can get of this mineral.

The enclosed papers, as you will see, are a certificate that he is living and a certificate that he is registered at the Spanish Consulate, this to enable you to collect the pension to which he is entitled. I do not want to say anything to you or to Carmen about your unfortunate loss. I realize how much you have suffered for I well know deep into the soul such a thrust reaches. Pray God to spare the life of those remaining and concentrate your love in them. This is the only consolation you can have under the circumstance and if the fact that we share with you your misfortune can minimize your sorrow, believe me that we do really and sincerely share your grief. Your loving brother, Rafael.

PARIS, *Sept.* 30, 1883.

MY DEAR QUICO: I have before me your kind letters of the
225 11th and 29th of July which I proceed to answer. That of the 29th *O* received through uncle Manolo for whom I am waiting that he may take me out of this place where I do not want to spend the winter.

I am very sorry that you have had to look after the work so much. The draft in favor of Morales for one hundred and thirty dollars and thirty cents I have sent to him. Accept whatever Marcaida offers you, even at a loss, in view of the fact that you cannot get more, and add the debit and the credit of the account, a copy of which you have sent to me, and send me whatever balance may be due, that I can forward it to Morales.

I cannot write you more to-day nor can Mamen and Antonio do so. I have your letters to them which I will hold until our situation improves. Tell Carmen to consider this as a letter to her also. I am sorry that my own affairs should cause you to suffer and you and her receive an embrace from your father, Antonio. P. S. Rafael looks after me and never leaves me alone in the prostrated condition in which I am. My life, however, is not in danger and I am ready to make the return trip.

BARCELONA, *May* 31, 1884.

MY DEAR QUICO: I have great pleasure in informing myself of the contents of your favor of the 4th of April last and of everything you say with reference to the houses. I approve all the repairs made by you with economy but I do not approve of ypur refusal to charge me with whatever you may be entitled for your personal work and zeal. I insist that you charge to my ac-
226 count at least what I offered you the *a*lst time I wrote to you with reference to this matter, unless you want to charge more.

I also approve of your idea with reference to the repair of the theatre and I thank you very much for the zeal and good judgment with which you were going to proceed with the work at an estimated cost of two thousand pesos. I do not know where you are going to get the money from.

We expect every moment the arrival of Rosario and Cayetano whose coming we applaud. We will wai*n*t for them here so that we may go together to Madrid.

I enclose here my answer to Jorge who has certainly given me some good news about the development of the mine, telling me that he expects to begin to dig out gold soon. I am improving, although very slowly.

I appreciate and return the embraces to Carmen and her children and you receive an embrace from your father who loves you very much.

For father: TULA.

BARCELONA, *Sept.* 20, 1883.

MY DEAR QUICO: I am writing you this letter by the S. S. "Isla de Mindanao" which leaves to-day. This letter will be delivered to you by the steward who is a friend of our waiter on the S. S. "Barcelona". He is still here and I have availed myself of this opportunity to inform you that we are all well but very much
227 disappointed because we do — hear from you. We are very uneasy. Whenever the mail arrives Antonio goes to the postoffice but no letters come. Well, we will see whether we get any letter from you by the S. S. "España", which is as slow as a water buffalo, expected here on the 13th. I understand she is now in quarantine. You have no idea how uneasy we are and how anxiously we wait news from you. We have been here four months and have no- heard from you at all. About our situation I will say nothing, because as you know we are the same as ever. We hear that *after* is improving, thank God.

Uncle Manolo continues to be very good to us. Were it not for him I do not know what would have become of us because we had nothing to expect from Pepen. What a scoundrel.

I have very little news to give you. We live like nuns. We never go out, particularly during the last days. It has been raining all the time. I hear that there is no end to the calamities in that country. May be you have read in the newspaper that there was an attempt to kill the King while he was in Paris. Thanks to the Government

at Madrid a telegram was immediately sent to the Consul at that place telling him to lookout, and the worst of it is that the would be murderers were Spaniards. I do not know why they hate him so much.

Antonio does not write at this time because he is making copies of the papers connected with the estate which copies father told him to prepare for uncle Manolo.

I am not writing to Nene because I do not know whether she is on her way to this country. I always send somebody to the steamer to see whether or not she comes. A tight embrace to Carmen
228 and to the children who I suppose have grown very much, and particularly to my namesake; tell her that I am very anxious to see her. Your loving sister,—Tula. P. S. I suppose that Mamen must have grown a great deal. We always remember him. Please embrace her. I suppose that he does not remember us.

BARCELONA, *Jan.* 31, 1884.

MY DEAR QUICO: I beg to answer your letter of the 30th of November which I received on the 15th. As you commenced by charging me with having forgotten you I will tell you that I did not write to you because Tula and Antonio told you everything in their letters I could have said myself. Father is improving gradually, although he is still unable to write with his own hand; but this he will be able to do in time. It seems impossible that the scoundrel Rafael would have done what he did to father and to us. You are correct in saying that he had premeditated everything. He did not want to do anything until uncle Manolo left here. Then he put two small lamps in the hallway and in the dining room and he wanted us to walk about the house with candles. He also wanted to buy for our own use one dozen ordinary plates which the dealer said were only good for servants. In view of this I selected a set of tableware without his knowledge and told the owner of the store to send it home. I did the same thing with the lamp for the parlor and that for father's bedroom. His conduct seemed to me very funny but I never thought that he had such infamous plans in mind, even though he had told me so, in view of the good opinion you had of
229 him, but we have certainly been very much disappointed because he is nothing but a hypocritical jesuit. What do you think of the idea of showing us into this entresuelo (ground floor)? Why uncle Manolo was very much surprised to find that we were occupying such apartments and he told me that he intented to tell General Riquelmi to come to see us and that if we wanted anything to look after us but he told me at the same time that he would not bring him to the house because it would be shameful if he were to find us in a place like this look common ordinary people. This is loocked down upon here. Don't worry about father. We will spare no means to see that he is properly cared for and that he lacks nothing which he may require. To avoid leaving him alone we do not go out except on Sundays when we go to the Church and then return to the house. The doctor, however, has told us twice that we should go out and take some exercise, because if we stay at home all the time

we will be sick. What we are going to do is to take turns in going out. However I do not know when this will be because we have been thinking of doing so for about two months and the trouble is that none of the girls want to go out when I stay at home. Yes I think I made a mistake about the amount I told you I had left in the wardrobe when I left there. I can see from your detailed statement what the amount actually was. It was my intention to put the money in the savings bank at 8%. This would be safer and would not bother you so much. I am sorry to trouble you with my own affairs, and many thanks for your good management.

Sarate is here now and leaves for that country in March. I would willing go back with *me*. I am sick of all these people who *same* to care for nothing but their personal interests. When the Acunas come to visit us I tell them such big lies that Tula has to leave because she cannot keep from laughing. They told me that
230 you were flirting with one of them. The concervative party is now in power. This is what we all desired, God grant that uncle Manolo gets what he wants and later on secure the Grand Cross. Papa was very glad to learn that the house on the Escolta is now rented. This is what has pleased him the most. I don't write any more because I have nothing else to say. Do not let any one see this letter. I hope Nene will not open it thinking that *is* is for him. We are anxious to receive those pickled roe.

Receive an embrace from your loving sister, Carmen.

BARCELONA, *Nov.* 30, 1883.

MY DEAR QUICO: It would be more agreeable to us to receive your kind letters by the French Mail which arrives here earlier than Ocampo's boats which are very slow, like the one on which Marquis came. He left there on the 1st. of October and arrived here on the sixteenth of this month, a long time after the S. S. Lopez, which left there on the 15th, arrived. The latter boat made a fine trip as usual. The same when they go back. It only takes them thirty days, whereas the Campo's boats are very slow, as you know. If you are so busy that you cannot get your letters ready in time to send them by the Lopez boats, you can send them by the French Mail as well. It leaves there twice a month and arrive- here much earlier than Campo's pontoons. The latter, as I have said before,
231 are no earthly good. Everything about them is bad. Even the food is detestable.

Mr. Marquis is quite attentive to us during the two days he spent here. We are very sorry that he left so soon because he was very entertaining and father was very grad when he told him that his real estate was in good condition, and that you were trying to settle all of your affairs so that you could come ever in March. His greatest pleasurer will be to have you near him and have all of his business properly settled, which is the main thing. The letter which was delivered to us by Marquis is dated September, which letter we have not read to father because it showed that you were troubled and it contained disagreeable news which would have a very bad effect on him. He is not in a condition to resist any further aggra-

vating blows. He has had enough trouble already. When you write to us do not forget to enclose another letter for him, giving him good news about his properties and telling him a lie now and them to keep him in good humor and avoid his worrying about your situation and the condition of his business which is always on his mind, as he told Marquis the last time he talked to him. As Mr. Marquis has something from you to deliver to Mr. Morales, Mamen has asked him to tell Mr. Morales that she begged his pardoned for not having answered his telegram. She did not answer it because she had received no news from Nene and also because she was compelled to go to Paris on account of the accident suffered by her father. Marquis also told us that those people are very much disgusted with *Tanban* and that things are going to the dogs. This shows how ignorant they are, as you well know. I do not care to say anything about the Spaniards who live there because I do not want
232 to spoil this letter. It is sufficient to look at their pigs' faces to realize how indecent they are.

Mr. Carcer and his family, whom I suppose you know, they having lived there a long time, have settled here and they send their best regards to you all.

With best regards to all from your loving brother,—Antonio.

P. S.—Do not forget to put the name of the boat which carries your letters. If you send them by the Franch Mail or by the Reyes boats which leave there for Singapore where they connect with the French Mail, please also state the name of the boat so that the post-office authorities at that point will not send them some other way, as they usually do, for those gentlemen, as well as those of the post-office here, seem to have their eyes anywhere else than in the right place.

233 *Testimony of Venancio Ruiz,*

who, having duly sworn according to law, testified as follows:

Questions by Mr. CHICOTE:

Q. Please state your name, occupation and residence?
A. Venancio Ruiz; Manufacturer; No. 85 Arlegui, Quiapo.

Mr MONTAGNE:

Q. How many years have you been living in the Philippines?
A. More than forty years.
Q. Do you remember having testified as a witness in case numbered twenty-o*b*e, against Francisco Enriquez for making a false statement in a public document, instituted in the Court of First Instance of Binondo?
A. Yes, sir.
Q. Did you know Antonio Enriquez in the year 1883?
A. Yes, I knew him long before that date.
Q. Were you then a procurator of the Courts of Justice?
A. Yes, sir.

Q. Did you, as a Procurator, have anything to do with any litigation to which Antonio Enriquez was a party?

A. I had a case for the recovery of a certain amount of money, in which Antonio Enriquez was interested. I do not remember the amount claimed, but before he went to Spain, and as I represented José Roman, Don Antonio Enriquez asked me to come to his house. * * *

Mr. MONTAGNE: I object to the answer, as not being responsive to the question. The question is very simple.

Mr. CHICOTE: You can tell me whether you spoke to Antonio Enriquez, but can you tell me what you told him or what he told you, and whether or not you had a conversation with him. You need not say what the conversation was about?

234 A. Yes, sir. He asked me what I wanted, and I told him, and he said, "Well, I went to settle the payment of this claim."

Mr. MONTAGNE: I object to the answer, and ask that it be stricken from the record.

The COURT: The law says that you can testify that you had a conversation with the deceased, but that you can say nothing about the subject of the conversation, but simply that you had a conversation, for five minutes or for an hour or so.

WITNESS: I had a conversation with him. That is to say, he asked me questions, for about fifteen minutes, while in his house, and we understood each other perfectly.

Q. Do you remember whether you went to see him of your own accord, or whether he sent for you?

A. He sent for me in connection with this matter, and I went to see him.

Q. Do you know what took place during the conversation between you and him—I mean, what words passed between you and him, and what he told you during that conversation?

Mr. MONTAGNE: I object to the question, as insufficient, and because no foundation has been laid therefor.

The COURT: Objection sustained.

Q. Did you speak with Antonio Enriquez at that time?

A. Yes, sir.

Q. Did he pronounce any words which could be understood?

Mr. MONTAGNE: I object, for the reason that no foundation has been laid for the question.

The COURT: Objection overruled.

235 Mr. MONTAGNE: Exception.

A. Yes, sir.

Q. At the time that you talked to Antonio Enriquez, was he lying in bed, or was he in any other part of his house?

A. No, he was walking up and down in one of the rooms of the house. I do not remember whether it was in the parlor or in the hallway. He was walking with a cane. When I arrived he got up

and we talked without any difficulty, and after we finished the conversation I did not see him again.

Q. At that conversation with Antonio Enriquez, did you notice anything strange or unusual in him?

A. Yes, he stammered somewhat in his speech, and seemed to be suffering on his right side, because he walked with some difficulty.

Q. Did Antonio Enriquez pay to you the amount of the claim on that date?

A. No. On the following day he sent me the money, through his attorney, Juan Antonio Gomez, to my house. I do not remember the amount, but I think it was four thousand pesos.

Q. Do you remember the approximate date on which that conversation took place?

A. In the latter part of February. I think it was early in March of 1883, a few days before he went to Spain with his brother. I later learned by the newspapers that he had left for Spain two or three days subsequent to that time.

Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

—. You represented Francisco Enriquez in several suits, did you not?

A. I was Procurator for the estate.

Q. In behalf of Francisco Enriquez?

236 A. In behalf of the estate.

Q. Who retained you?

A. The executor, who was the only one who could have employed me.

Q. Who was the executor?

A. Francisco Enriquez, the only one empowered to do so.

Q. Did you have any power of attorney from Francisco Enriquez to represent him?

A. Yes, I did, as executor of the estate.

Q. You mean after the death of Antonio Enriquez?

A. Naturally so; it must have been after the death of Antonio Enriquez, because otherwise there could have been no estate.

Q. But you were employed by Francisco Enriquez, were you not?

A. I was employed by the executor of the estate, Francisco Enriquez. Personally, I never had anything to do with Francisco Enriquez.

Q. The power or powers of attorney which you may have had, in order to intervene in all these matters, was given you by Francisco Enriquez in his capacity of executor, was or were they not?

A. Yes, in his capacity of executor.

Q. Did you at that time receive any amount of money from Antonio Enriquez and did you give any receipt for it to Juan Antonio Gomez?

A. Yes. He brought the money to my house.

Q. At that time was there any action pending in the court with reference to that matter?

A. Yes. I filed a complaint on behalf of José Roman, to recover that amount of money.

237 Q. During the pendency of that action, was it then that you received the money?

A. Yes, the day after I talked to Antonio Enriquez.

Q. Did you obtain a judgment upon that complaint?

A. No, because immediately after the filing of the complaint he paid the amount of the claim, and the matter was finally settled, the promissory note being returned to him.

Q. Approximately how long after the filing of the complaint was it that you were paid the money?

A. A few days later; because, as soon as he was notified, Juan Antonio Gomez came to my house on the following day, and paid me the money.

Q. In what court was that complaint filed?

A. I do not remember.

Q. Was it in the Court of First Instance?

A. In the Court of First Instance, for the claim was for a large amount.

Q. And that conversation you say you had with Antonio Enriquez—did that take place after the filing of the complaint?

A. Of course. It could not have been before the filing of the complaint, because otherwise he could not have had notice of the same.

Q. Did you have that conversation with Antonio Enriquez before or after the money was paid?

A. I have already said that the day after I talked to Antonio Enriquez an attorney came to my house and paid me the amount of my claim, and the matter was finally settled.

Q. Juan Antonio Gomez was at that time the attorney for Antonio Enriquez, was he not?

238 A. Yes.

Q. You say that the complaint in question was filed by you in behalf of José Roman against Antonio Enriquez, for a sum of money, and that the conversation took place some time in February, 1883, do you not?

A. I have said before, and I repeat now, that I am not sure whether it was early in March or in the latter part of February of that year.

Q. How do you remember that it was in 1883 and not in 1882?

A. It was in February, 1883, or early in March of that year.

Q. And how do you know that it was in 1883 and not in 1882?

A. Because that was a personal matter of mine.

Q. Do you remember the date and year of all your professional transactions?

A. The date, no.

Q. And the year?

A. Yes.

Q. And of other personal matters?

A. Of some, yes; of others no.

Q. But you are certain that that conversation did not take place in 1882, are you?

A. I have said, and now repeat, that it took place in 1883, in the latter part of February or early in the month of March.

Q. But you have no recollection of any conversation with him in the year 1882, have you?

A. No.

Q. You are certain that that conversation did not take place in the year 1882, but in 1883?

A. In the year 1883.

239 Q. When did you speak to Francisco Enriquez for the first time with reference to your employment as a Procurator?

A. Long after his father's death.

Q. Do you remember the date?

A. No.

Q. Do you remember the month?

A. No.

Q. Do you remember the day?

A. No.

Q. When was the first time that you appeared in court in behalf of Francisco Enriquez, as Procurator?

A. I do not remember.

Q. Do you remember the month?

A. Neither the month nor the year. I could remember the date if I had the record before me.

Q. Did you have under your charge the case instituted by José Roman?

A. No. That was a petition that he be summoned. It was an action upon a promissory note.

Q. And is the record of that action in the Court of Furst Instance, or have you it in your possession?

A. I do not think it is in the court. That was simply a petition that summons be issued to him, but as we were paid the amount claimed the promissory note was returned and the matter was definitely settled.

Mr. MONTAGNE: That is all.

240 *Testimony of Rafael Enriquez.*

Questions by Mr. CHICOTE:

Q. Does the witness promise under oath to tell the truth, the whole truth, and nothing but the truth, in accordance with his previous oath given in this case?

A. Yes, sir.

Q. Where did you live from the years 1882 to 1885?

A. In Paris.

Q. Were you ever in Barcelona, accidentallly or otherwise, during that time?

A. Yes, sir, when I went to meet my father.

Q. Do you remember in what year you went to Barcelona, and approximately how long you stayed there?

A. A very short time. I have already so stated, in my previous

declaration. When my father arrived I stayed there a short time. I was there temporarily, on account of my father's sickness. My sisters and I decided to take him to Paris, to see whether we could secure his complete recovery.

Q. Was that in 1883?

A. Yes, sir; in the month of May.

Q. Do you remember having written several letters from Paris to your brother Francisco, in the year 1883?

A. Yes, sir; only a few letters.

Q. Do you remember having written Francisco Enriquez a letter dated February 9, 1883?

A. After eighteen years I cannot exactly recollect the dates, and I cannot tell you; but I remember having written to him several times—a few letters.

241 Q. I will now show you this letter, and ask you whether you wrote it? This letter appears on page 29 of the record of Case No. 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public instrument, a copy of which letter is also attached to the record in this case, marked Exhibit "7".

A. Yes, sir, that is my handwriting. It is mine.

Q. During your temporary stay in Barcelona, in the year 1883, do you remember having written a letter to your brother Francisco, dated March, 14, 1883?

A. I have already said that I wrote him several letters. After twenty years I cannot recollect dates.

Q. I will now show you this letter, appearing on page 31 of the record of Case No. 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public document, copy of which said letter is attached to the record in this case and marked Exhibit VIII. I will ask you to state whether you wrote it.

A. Yes.

Q. Do you remember having written a letter from Paris, dated February 9, 1883, addressed to your father (exhibiting to the witness a letter on Page 83 of the record of Case No. 21 of the Court of First Instance, a copy of which letter is attached to this record and marked Exhibit IX.)?

A. Yes, sir, that is my letter.

Q. Do you remember having written letters, dated Paris, July 1, 1883, and July 28, 1883, respectively, appearing on pages 35 and 37 of the record of the said cause No. 21 of the Court of First Instance of Binondo, copies of which said letters are attached to the

242 record of this case and marked Exhibits 10 and 11?

A. Yes, sir.

Q. During that period from July 1st to June 28th, 1883, were you living in Paris with your father?

A. Yes, sir. I could not leave him alone a single moment.

Q. I will show you a letter appearing on Page 41 of the said cause, dated September 30, 1883, addressed to Francisco Enriquez and signed "Anto." ("Antonio"), and I will ask you whether the

handwriting and the signature are those of Antonio Enriquez, and whether the letter was signed with his own hand. (A copy of this letter is attached to the record and numbered 12.)?

A. The letter was written by me, and the signature was made by my father, I guiding his hand. I tried to imitate his handwriting as much as I could, but did not succeed very well. I wanted this to show my father's connection with the letter. I wanted my brother to see in the letter the expression of my father's will, as though he himself had written it. The letter is in my handwriting, and the signature was made by my father, assisted by me. Notwithstanding the fact that I am an artist, I was unable to imitate his handwriting when I made his signature. The whole letter was written by me, and the contents were inspired by me.

Mr. Chicote then read the letter dated February 9, 1883, a copy of which is attached to the record and marked Exhibit "7".

Mr. Montagne stated that in order to save time he would like to cross-examine the witness after the reading of the letter.

243 *Testimony of Francisco Enriquez.*

Questions by Mr. CHICOTE:

Q. Are you one of the sons of Antonio Enriquez y Sequera?
A. Yes.
Q. Are you the husband of Carmen de la Cavada?
A. Yes, sir.
Q. What relations have you with Victoriano delos Reyes?
A. Friendly relations only.
Q. In the years from 1882 to 1888 did you have any intimate relations with him?
A. Intimate relations with him, no, sir; purely friendly relations.
Q. Did Victoriano Reyes and his family visit your house?
A. No, sir, they did not visit me.
Q. Did you visit them?
A. No, sir.
Q. Have you been in Manila since the year 1882—have you resided in Manila since then?
A. I have lived here since 1882, yes, sir.
Q. Have you any recollection as to your father's illness?
A. Yes, sir. In the year 1882 he had an attack, precisely on the day after the big storm that swept over Manila, and my uncle, Manuel Enriquez, who was then Governor, came to see my father, for the purpose of taking him along with him, and at the same time investigating the damages caused by the storm. It was also his intention to comfort him, for he was very sad, on account of my mother's death. I do not remember whether it was when he got back to the house from his tour of inspection, or whether it
244 was on the following day, that my father suffered this attack.

In my letter of the 30th of December, to my brother Rafael, I spoke of my father's partial recovery. I think that letter was written on the Escolta.

Q. How long after that did you remove to the Escolta?

A. My father was taken ill in October, and we removed to the Escolta in the month of December of the same year I think it was about the 15th of 20th of December.

Q. Did you remove to the Escolta with the intention of remaining there?

A. No, sir, it was merely temporary. It was at the doctor's suggestion that we removed to the Escolta. Dr. Candelas was the doctor who was treating my father. I had already spoken to him about removing my father to another place, that he might forget his bitter memories of that house where my father had died. Dr. Candelas thought that it was advisable to take him to another place, and he was removed to the Escolta.

Q. Do you know what persons attended to your father during his illness?

A. His brother, Manuel Enriquez, his children and all the members of the family who were present.

Q. Do you not remember of any servant named Pascual, who used to wait on your father?

A. There was a servant in the house by the name of Pascual, but his duties were confined to the kitchen.

Q. That servant,—did he not take care of your father?

A. That servant never went into the room where my father was. Morever, he was a man who was unable to speak Spanish, and my father was unable to speak Tagalog, and it does not seem natural that a kitchen boy would take care of my father when the
245 whole family was there.

Mr. MONTAGNE: I ask that the witness's answer be stricken from the record, because it is a mere inference.

The COURT: Motion overruled.

Q. Were the persons who frequented the house of Antonio Enriquez strangers to the family?

A. No, sir.

Q. Did any stranger come to the house of Antonio Enriquez?

A. Some of his friends came to the house, but they never went into the room. The only persons who took care of him were the immediate members of the family, his sons, his brothers, and his nephews.

Q. While Don Antonio was on the Escolta did any persons outside of the members of the family call to see him?

A. Persons who were members of the family would occasionally call at the house.

Q. Could those persons who called at the house of Antonio Enriquez go into the room, see him and speak to him?

A. Sometimes the more intimate friends of the family were allowed to see him; but they generally did not insist, so as not to to disturb him.

Q. Did they speak to your father?

A. Yes, while on the Escolta; yes, they did.

Q. Is it true that your father Antonio was in such a condition

that he could not move and simply lay on the bed like a log of wood?

A. No, sir, when he was first taken ill of course he could not move, and was unconscious, but about the 30th of December of the year 1882 he commenced gradually to improve.

246 Q. Could your father walk?

A. Yes, sir, leaning on a cane. While on the Escolta, and by direction of the doctor, he would spend hours and hours walking up and down the corridor, with a cane in his hand. While on Calle David he had to be assisted by one of his children.

Q. Did he have any difficulty in moving around?

A. Yes, he moved with some difficulty, on account of the paralysis. Of course, he could not walk like a person in good health.

Q. While in that condition could your father articulate?

A. Yes, sir, he could articulate some words.

Q. Could he do so during all the period of his illness?

A. At first, no, sir; but afterwards, and during the month of December, he could articulate a few words; and when he was removed to the Escolta of course he could not talk freely, but he babbled, and could make himself understood perfectly well.

Q. Can you state what was the financial condition of your family in the year 1882 and thereafter?

A. The financial condition of the family was very good. On account of the expenses of his illness, and the ordinary expenses of the family, some of my father's property was mortgaged, to the extent of eight hundred thousand dollars. The expenses were something enormous, for the support of the family, for the payment of taxes, interest on the money borrowed and insurance premiums—all of which amounted to a considerable sum.

247 Q. Can you give us any information as to the administration of that property,—that is to say, the amount of the receipts and the disbursements?

Mr. MONTAGNE: I object to the question, as incompetent and immaterial.

The COURT: Objection sustained.

Q. Do you know whether or not your father's property included a piece of real estate on the Riverita, on the corner of Calles Numancia and Urbiztondo?

A. Yes, sir.

Q. Do you remember, as attorney in fact of your father, whether that property was sold?

A. Yes, sir.

Mr. MONTAGNE: I object to the question, because it is a mere inference of the witness.

Q. Do you remember to whom that property was sold?

A. To Victoriano Reyes.

Q. Why did you sell that property?

A. Because I needed money to send to the family in Spain, and had no other funds available. As I had no money I was compelled to

sell that property, in order to send money to them I sold the property because it was necessary to do so.

Q. Was there any consideration given for the transfer of the property—did you receive any money for the sale of that property?

A. Two thousand, five hundred pesos.

Q. Was that property sold at public auction?

A. No, sir, it was bought by the estate, at private auction.

248 Q. Did you sell that property for two thousand, five hundred pesos?

A. Yes, sir.

Q. Do you know how long before that your father had bought the property?

A. That property was bought, if I remember correctly, at public auction in the year 1880.

Q. Do you remember how much your father paid for that property?

Mr. MONTAGNE: I object to the question, as incompetent and immaterial.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. One thousand three hundred and sixty-seven pesos. Although several bidders attended the sale—Genato, Mortera and others—, in view of the sum offered by my father they let him have it, for one thousand three hundred and sixty-seven pesos.

Mr. MONTAGNE: I move that the latter part of the answer be stricken out.

The COURT: The latter part of the answer is immaterial.

Q. As the husband of Carmen de la Cavada, do you keep your properties together or do you keep them separate?

A. We keep our properties absolutely separate. We have so agreed in a public instrument.

Q. Do you know whether your wife bought from Victoriano Reyes the property in question?

A. I heard of that afterwards.

Q. When did you learn of it?

A. When Victoriano Reyes told me that he wanted to sell

249 that property, and that he had offered it to my wife, I told him that he could do as he pleased, because she had absolute control over her own property.

Q. Have you and your wife executed any written instrument evidencing that agreement between you?

A. Yes, sir, an instrument relating to the separation of our properties.

Q. Did your wife, Carmen de la Cavada, pay the price of that property?

A. I have already said that she paid two thousand five hundred pesos for it.

Q. Was that money actually delivered to the vendor?

A. Yes, sir.

Q. Was the money paid to Victoriano Reyes?

A. Yes, sir. Before the execution of the instrument I believe that he gave my wife a receipt for it.

Q. Were you present when the money was paid?

A. My wife paid him the money, and I knew of it because she told me later.

Mr. MONTAGNE: I move that the answer of the witness be stricken from the record.

Q. Did you see it with your own eyes?

A. I saw when she paid him the money, but I did not want to interfere.

Q. Did you see the money?

A. I did not want to interfere in her personal affairs—I mean business matters.

Q. Were you present at the time of the execution of that instrument?

250 A. I went to the notary's office, for it was necessary for me to be present.

Q. Did you see at that time any document other than the instrument of conveyance?

A. I saw the receipt which Victoriano Reyes had given my wife when he received the purchase-price.

Q. Has your wife that receipt in her possession?

A. No, it was destroyed, because, it having been stated in the instrument that the purchase-price had been paid, they thought that it was of no further use, and it was destroyed.

Q. Has your wife ever engaged in business of her own?

A. Yes, she used to deal in grain, native cloth and jewels, which were the most profitable to her.

Q. Q. The money you received for the sale of that property to Victoriano Reyes, have you charged the estate of Antonio Enriquez with it?

A. When the charge was made with reference to that——

Mr. MONTAGNE (interrupting the witness): I object to the question, for the reason that it calls for an answer which would be against the interest of the witness, and for the further reason that the witness has already stated that the amount which he received he sent to Spain during his father's life-time; and having sent this money to Spain, it passed out of his hands, and no longer belonged to the estate. This item was accounted for in his father's life-time. I further object to the question, because it refers to a fact which must appear in some document. If he has rendered an account of his administration of the estate, the account would be the best evidence.

251 Mr. CHICOTE: I agree with counsel for the other side, that this may be proven by an official document.

Q. Do you remember whether your brother Rafael, by himself, or on behalf of some other person, has heretofore discussed with you the matter of the sale of this property?

A. Yes. This matter is included in a public instrument relating to the inventory and accounts.

Q. Do you remember whether at that time your brother (Translator's note:—remaining words unintelligible.)

A. At the time that discussion occurred that instrument already existed. He went to the clerk's office, and the Court was duly notified of the remittance of the money to my father; but the matter was held in abeyance until the final settlement. (Translator's note:—[illegible] otherwise unintelligible.)

Mr. MONTAGNE: The testimony of the witness is absolutely irrelevant, there being an agreement between the parties with reference to the amount in question and the manner in which the sale should have been made, the parties having agreed that the instrument is the best evidence that can be offered.

Mr. CHICOTE: I agree to that.

Q. Do you remember whether your brothers objected to the partition of the estate because of the illegitimacy of the sale, or to the partition of your father's estate?

Mr. MONTAGNE: I object to the question, as leading.

The COURT: The witness may testify to matters within his own knowledge.

Mr. CHICOTE: Do you know what the value of this property was in the year 1883?

A. I think it was two thousand five hundred pesos, which I considered a comparatively low price at that time.

252 Q. How much could that property produce then?

A. I do not remember well. The building was in a ruinous condition and I think that it produced some twenty or thirty pesos, at most, per month. I remember there was a Chinese locksmith, who paid eight or ten pesos per month for the use of the property.

Q. Do you know what has been the rental value of that property, from the years 1883 to 1898 and from 1898 to 1900, and up to the present time?

Mr. MONTAGNE: I object to the question, as incompetent and irrelevant. This case only refers to the question of rent.

The COURT: The witness may answer.

Mr. CHICOTE:

Q. Please state what would be the rental value of the property from 1883 to 1890?

A. That property formerly rented for some thirty odd pesos; later, it produced only fourteen, and some six months ago an arrangement was made with two Chinamen, who pay eighteen pesos, and a woman who lives there pays only ten pesos—this being all that the property produces.

Q. What is the present rental value of the property?

A. The present rental value of the property—I do not remember exactly how long ago the contract of lease was made—is one hundred and sixty pesos.

Q. Was that contract made in the month of May of this year?

A. I think so; maybe it was in April.

Mr. CHICOTE: That is all.

I certify that the foregoing is a true and correct tran-
253 script of the testimony of the witness.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

254 Continuation of the Testimony of FRANCISCO ENRIQUEZ.

Questions by Mr. MONTAGNE:

Q. How long before you sold that property to Victoriano Reyes did you know him?

A. I do not remember. I had known him for a long time prior thereto. This was an acquaintanceship: there was no intimacy between us.

Q. Did you know him here in Manila?

A. Yes, sir, in Manila, at the Puerta del Sol.

Q. What is the Puerta del Sol?

A. It is a local store.

Q. Was he a clerk in that store?

A. He used to work there: I do not know what his position was.

Q. Is the Puerta del Sol a commercial house?

A. Yes, sir, it is a mercantile establishment.

Q. Is it a shop?

A. Yes, sir.

Q. Did you have any business with Victoriano Reyes prior to that date?

A. Absolutely none.

Q. Which of you spoke first with reference to the sale of that property?

A. I asked him if he could get some money for me.

Q. Where did you go to see him?

A. I happened to go to the store, and there spoke to him.

Q. How did you know that he was interested in the purchase of real estate?

255 A. When I spoke to him I did not know that he was interested in such business. I merely told him that I needed some money to send to Spain—that I needed money.

Q. When you spoke to him what did he say?

A. He told me that he would think it over—that he had no money available for this investment.

Q. Do you know whether Victoriano Reyes had any money for investment in real estate?

A. He knew that; I did not.

Q. Do you know whether Victoriano Reyes, on any occasion, had bought any real estate in the city of Manila or in any other place?

A. I do not know whether he had or not.

Q. Do you know whether Victoriano Reyes was engaged in the purchase and sale of real estate?

A. I do not know what his business was.

Q. Do you know whether Victoriano Reyes at that time, or at any other time after you spoke to him, was married and had a family?

A. If he was married I did not know it, because it was not my business.

Q. All that you know is that he was a clerk in the Puerta del Sol?

A. What I do not know is in what business he was engaged; I do know that he was a clerk in the Puerta del Sol.

Q. Did you go into the store for the purpose of buying something?

A. I do not remember whether I entered the store for that purpose or not. After the lapse of some eighteen years it is not easy
256 to remember these details.

Q. Did you speak with him inside or outside the store?

A. I cannot remember whether it was inside or outside.

Q. Do you not remember whether he was behind the counter, or in some other place, when you spoke to him about this matter?

A. I cannot remember those details.

Q. Did you have any other conversation with Victoriano Reyes, except on that occasion when you asked him if he wanted to buy the property, and he told you that he would think it over?

A. After eighteen years, how can you expect me to remember whether I had any other conversation with him or not? I don't know.

Q. Did he ask you to sell him that property?

A. He did not ask me; he told me that he would think it over, saying that he needed the money to send to his family. He told me that he would accommodate me if I promised to purchase the property from him, in which case he would make a special effort to get the money to buy the property.

Q. Did he tell you that he would think it over?

A. Yes, that he would try to buy it.

Q. Did he tell you whether or not he had money with which to buy the property?

A. He did not.

Q. Do you remember whether he asked you any questions with reference to the property?

A. He asked me where the property was.

Q. Did you tell him where the property was?

A. Yes, I told him that it was in the District of San Nicolas of Binondo.

257 Q. Did you tell him the street?

A. Yes, I told him on Calle Numancia, on the corner of La Barraca and Urbiztondo.

Q. Did you tell him about the condition of the house and the improvements thereon?

A. There were no improvements on the house at that time. I simply told him that the house was in a fair condition.

Q. When did you receive the purchase-price of the property? Was it at the time you talked about the property?

A. After we talked about the property, and after he made that promise to me, in view of my statement that I needed the money badly,—on the following day he did not but on the next day he told me that he would try to get the money to buy the property.

Q. When he told you that he had the money with which to buy the property, when did that conversation take place?

A. I have said that I did not hear from him on the next day, but that two days later he informed me that he would make an effort to buy the property.

Q. Where did that second conversation take place?

A. At the store, near the door, on the sidewalk of the Escolta.

Q. Was it out on the sidewalk?

A. At the door itself.

Q. Do you remember whether that conversation took place at the door of the store or on the sidewalk?

A. Yes, sir, right there.

Q. Was it not inside the store?

A. No, sir.

Q. Was it not behind the counter?

A. No, sir.

258 Q. That conversation took place either on the sidewalk or at the door, you do not remember exactly where, do you?

A. Right at the door, near the sidewalk, on the Escolta. I do not remember exactly the time.

Q. What did he say to you at that second conversation?

A. He told me that he would buy the property.

Q. When did he pay you the money?

A. I do not remember, but I think it was two days later that the public instrument was executed.

Q. Where did he pay you the money?

A. At my house.

Q. Was it at your house?

A. Yes, sir, on San Sebastian Street.

Q. Did he go *yo* your house to pay the money?

A. Yes.

Q. Before the execution of the deed?

A. Yes.

Q. How much did he pay you?

A. Two thousand, five hundred pesos.

Q. Was it in banknotes or in silver?

A. Partly in banknotes and partly in silver.

Q. Was it in the morning, in the afternoon or in the evening?

A. I do not remember whether it was in the morning or in the afternoon.

Q. Who was present when he took the money to your house?

A. He came to my house; I was in my office alone.

Q. Did you have your office at your own house?

A. Yes, sir.

Q. Did you make a memorandum of this payment?

A. I counted the money.

259 Q. Was that money to be entered on some account?

A. I got that money for the purpose of sending it to Spain.

Q. Did you enter that amount in any of your books?

A. No, because I waited until the deed had been executed.

Q. Did you not know that that money belonged to somebody else?

A. What do you mean by that?

Q. Was that your father's money?

A. It was money for my father's expenses.

Q. That being money belonging to somebody else, did you not enter that sum of two thousand five hundred pesos in some book?

A. I may say that, the payment of that amount appearing in a public instrument, your question seems to be irrelevant.

Q. I wish you to answer my question.

A. I have already answered that, at the time objections thereto were made, as shown by a public instrument executed in the year 1897.

Q. When did you remit that money to your father?

A. I cannot state the date exactly.

Q. How many days after the receipt of the money?

A. I cannot state positively.

Q. Did you remit that money to your father a week later?

A. All that appears in the public instrument which shows the acceptance of the letter acknowledging receipt of that amount.

Q. Ha-e you a memorandum of that receipt?

A. All that appears in a notarial instrument, in the public instrument to which I have referred, and in the accounts and inventory, executed before a notary public.

Q. I want you to answer my question: how did you send that money, by cable or through the bank?

260 A. Through the bank.

Q. What bank?

A. Through the Hongkong & Shanghai Bank.

Q. Do you know approximately the date on which you sent that money?

A. I cannot remember, after so many years.

Q. Did you send the money by draft?

A. Yes.

Q. Have you any means of ascertaining the date of that draft?

A. I had the draft itself.

Q. Have you it now?

A. No, for that draft has been lost. I had a receipt for it, dated December 1st.

Q. On whom was it drawn?

A. In favor of my uncle Manuel Enriquez, to whom the money was remitted for the support of our family.

Q. Did you get any letter asking you for that money?

A. All that appears in the public instrument.

Q. Do you remember approximately the date on which you sold that property to Victoriano Reyes?

A. The date is shown in the public instrament.

Q. The 12th of March, 1884, is the date on which you sold that property to Victoriano Reyes, is it not?

A. I believe so.

Q. Did he occupy the house?

A. No, sir.
Q. Do you know whether he leased it to anybody?
A. No, for it was not a dwelling-house.
261 Q. Did he rent it to any person?
A. The house was occupied by several Chinese.
Q. Did you ever go with him to see the house?
A. I do not remember.
Q. Do you know whether on or after that date, May twelfth, he went to see that property?
A. I cannot swear as to that.
Q. It appears from another public instrument that three weeks after that date the same property was conveyed by Victoriano Reyes to Carmen de la Cavada: do you know whether this is so?
A. About that time he came to me and told me that he was not satisfied with the house.
Q. Who told you that?
A. Victoriano Reyes.
Q. Where did he tell you that?
A. At my house.
Q. When he bought the property, and when the conveyance was executed, did you have the title deeds of the property?
A. I do not remember.
Q. Is it not true that under the Spanish law, and particularly the notarial law, the notary required to have before him the old title deeds in drawing up a conveyance of the same property?

Mr. CHICOTE: I object to the question. A notary, better than the witness, may be able to answer that.
The COURT: Objection sustained.
Mr. MONTAGNE: Exception.

Q. When Victoriano Reyes bought that property, and when the conveyance was executed, did the notary have before him the
262 old title deeds of the property?
A. I cannot say; that was the notary's business; I cannot say.
Q. Do you remember whether Victoriano Reyes asked you, or the notary, or some other person, as to the validity or non-existence of the old title deeds?
A. I do not remember.
Q. Do you remember whether Victoriano Reyes, when he bought that property, asked you to show him the title deeds of the property?
A. I do not remember.
Q. Do you know whether or not those title deeds showed that your father was the owner of that property and that he had paid, two years before, one thousand two hundred or one thousand three hundred pesos for the same?
A. That must appear from the instrument which was executed at the time the property was sold at public auction.
Q. After Victoriano Reyes bought that property, you say that you had a conversation with him with reference to the sale of the same to your wife Carmen de la Cavada?

A. Victoriano Reyes came to me and told me that he was dissatisfied with the property, and that he needed money, and asked me to repurchase the property from him. I told him that I could not repurchase the property at that time, because I needed the money to send to Spain, and had no other funds available. He said, "Then I am going to sell the property to whoever wants to buy it," and I replied that he could do as he pleased,—and that is all the conversation we had.

Q. When did you have that conversation with Victoriano Reyes?

A. I do not remember.

263 Q. Approximately how many days before the execution of the deed?

A. I do not remember the date.

Q. Was it in the month of April or May?

A. I do not remember.

Q. Was it two or five days?

A. I do not remember whether it was twenty, five or seven days.

Q. Considering that your wife was the intending purchaser, you might have remembered approximately how many days before the execution of the deed you had that conversation with Victoriano Reyes.

A. I could only tell the date by reference to the instrument itself.

Q. On the 5th of April, 1884,—twenty-four days.

A. It might have been ten or eight days.

Q. Where did that conversation take place?

A. At my house.

Q. What was the first thing he said?

A. The first thing he said was that he was dissatisfied with the house, and that he was in an embarrassing position because he had borrowed that money from somebody else and he had to return it at once and sell the property. He asked me to repurchase the property from him, but I told him that he knew very well that I had used the proceeds of the sale to send to Spain, and that I was unable to repurchase the property from him. He then said that he would sell it to anyone who was willing to buy it, and I told him that he could do as he pleased about it.

264 Q. Did you speak to him or to any other person again with reference to the sale of that property?

A. No.

Q. Did you not speak to your wife, advising her to buy the property that Victoriano Reyes wanted to sell?

A. I do not remember, but some time before that she told me that Victoriano Reyes had asked her whether she wanted to buy the property, and when she asked my opinion about it I told her she could do as she pleased with her own money.

Q. Did you say that before the execution of the conveyance?

A. Yes.

Q. Were you present when the property was conveyed to your wife?

A. Yes, because the notary said that I had to be present.

Q. Were you present when the instrument was signed?
A. Yes.
Q. How much did your wife pay Victoriano Reyes for that property?
A. The same price.
Q. In what kind of money?
A. I do not know. He went there and paid her. I do not know whether it was in silver, or bank notes, or what. She ought to know. I had nothing to do with that.
Q. Are you unable to say whether it was in bank notes or silver—I mean the money that Victoriano Reyes was paid by your wife for the transfer of that property?
A. I cannot say.
Q. Were you present when the money was delivered?
A. I was there, but when she got the money and made the payment I went away, as I had nothing to do with that, and did
265 not want to have anything to do with it.
Q. Was the money paid in the notary's office or at your own house?
A. At my house.
Q. A few days before the execution of the instrument?
A. Yes.
Q. But you did see the money, did you not?
A. Yes.
Q. Did you not notice whether or not it was silver?
A. There was some silver, but not very much. I do not know whether it was silver or bank notes.
Q. To the best of your judgment and recollection, can you state approximately what was the volume of the amount in silver that Victoriano Reyes delivered to your wife?
A. It was a fairly large pile.
Q. Was it five hundred pesos in silver?
A. I think it was more than five hundred.
Q. Between five hundred and one thousand, was it not?
A. Five or six hundred pesos.
Q. And there were bank notes in addition to that, were there not?
A. I cannot say.
Q. Where was the money paid?
A. In one of the rooms of my house,—my wife's private apartments.
Q. Were you called in when the money was paid?
A. I was at home, and as I was coming out of my room I saw Victoriano Reyes there being paid the money.
Q. What did you say when you saw that operation?
266 A. Nothing. What should I say?
Q. How long did you stay there during the paying of the money?
A. I simply walked over to Victoriano Reyes, and said, "How are you?" and immediately went away.
Q. Did you speak to your wife on that occasion with reference to the payment of that amount to Victoriano Reyes?
A. No.

Q. Did you speak to Victoriano Reyes after he had been paid that amount of money by your wife?

A. No. Why should I speak to him.

Q. Did your wife have that money?

A. As she managed her own property, I had no intervention therein.

Q. How long before that did she bring that money from the provinces?

A. When we returned from the provinces?

Q. On what date?

A. I do not remember. We had been both at Iloilo and Antique.

Q. Was it about two years before?

A. No.

Q. About a year before?

A. I do not know; it may have been about a year.

Q. How much money did she bring from the provinces?

A. Some money, yes.

Q. Can you state about how much?

A. I do not know; it may have been some three to five thousand pesos.

Q. Where did she get that money?

A. From her own business.

267 Q. What kind of business?

A. Business?

Q. Where did she conduct that business?

A. In the provinces.

Q. Were you with her?

A. Yes.

Q. Were you married to her when she had that business?

A. Yes.

Q. You say that she brought from the provinces about three to five thousand pesos?

A. Just about that.

Q. How long were you in the provinces with your wife?

A. We were in the provinces about six or seven years; more than five years, I am sure.

Q. In what provinces?

A. In Antique, Iloilo and Cavite.

Q. Is it not true that at that time you could not go to the provinces, because you were a Government employee?

A. I went as a judge.

Q. Did your wife go with you?

A. Yes.

Q. You say that when you were a judge your wife engaged in business?

A. Yes.

Q. Where did your wife have her establishment for conducting that business?

A. She never had any establishment. That business formerly belonged to Dr. Rey, who had some warehouses where he kept rice. My wife would buy four thousand or three thousand sacks of rice

during the season, and afterwards resell it in the provinces
268 at a profit. This was a business which produced sometimes two hundred per cent. profit.

Q. That business which she had with Dr. Rey was in the provinces?

A. Yes, sir, in Antique.

Q. In Iloilo, too?

A. Yes. She also engaged in the purchase and sale of jewels and the loaning of money on jewels.

Q. Did she have any place of business?

A. There was no necessity for any particular place of business. She conducted her business through what we might call brokers, to whom she gave the jewels for sale. That is very common here in the Philippines, and almost all the ladies here engage in that kind of business.

Q. Where is Dr. Rey now?

A. I do not know where he is now. I have not seen him for nineteen or twenty years. I have not heard from him since.

Q. Do you know where he could be found?

A. No, sir, I do not know where he is.

Q. You said that Dr. Rey was the person that conducted that rice business with your wife?

A. Yes, sir, my wife would give him the money and he gave her the sacks of rice, which she later sold at a profit.

Q. Have you, or has your wife, any document to show that, or any receipt to prove the existence of that business between your wife and Dr. Rey?

A. I do not know whether there is anything at all; I have nothing myself; I do not know whether she has or not.

Q. Can you search and see whether you can find any of
269 those documents?

A. I do not know whether I shall be able to find them.

Q. It is quite certain that a person who pays another an amount of money to invest in business, or for any other purpose, gets a receipt of some kind to prove the delivery.

A. The receipt, yes, sir.

Q. Can you search, and see whether you can find that receipt at home?

A. It would be difficult to find that receipt, because after the transaction was closed and the money returned it was natural that the receipt should be cancelled.

Q. Have you any account-book of that business?

A. The business was entirely my wife's; I have nothing.

Q. When your wife came back from the provinces, how did she bring that money with her, by a draft, in cash, in bank notes, or how?

A. I think it was in Philippine gold coins, which at that time were the most common kind of local money.

Q. Did she bring that money with her about her person?

A. I do not remember.

Q. Do you not remember whether she brought that money on her person—I mean, in her pocket?

A. She did not bring it on her person; I, cannot say where she had it. I suppose she kept it in some trunk or valise, where she had other things of value.

Q. Did she bring that money in a trunk?

A. Yes.

Q. How long before she left Manila for the provinces had she received that amount of money?

A. I had nothing to do with her business; I cannot say.

270 Q. Where did she keep that money while in the provinces?

A. I do not know; I suppose she had it in her own wardrobe.

Q. From what town did she come to Manila?

A. I think it was from Antique, Cavite or Iloilo.

Q. How long before your father's last illness was it that you came back to Manila?

A. In the year 1880 I remember that there was a big earthquake here, which was felt in Manila and throughout the provinces.

Q. Did you arrive in Manila shortly after that earthquake?

A. I do not remember whether or not it was shortly afterwards.

Q. A few months before?

A. I do not remember.

Q. After your father left for Spain did you leave Manila again?

A. No, sir.

Q. Where did you go to live when you arrived in Manila with your wife?

A. When I arrived in Manila with my wife, I think, if I remember correctly, that I went to live in a house in Trozo; I have frogotten the name of the street.

Q. And from there you removed to Calle David, did you not?

A. Yes.

Q. Do you mean where you were living at the time the property was sold to Victoriano Reyes?

A. No, sir.

Q. Did you move to any other house?

A. At that time I was living on San Sebastian street.

Q. It was while there that you sold the property to Victoriano Reyes?

A. Yes, sir.

Q. When you arrived here with your wife, do you remem-

271 ber the bank where you deposited that sum of one thousand five hundred pesos which she had?

A. I do not remember whether she deposited the money at all.

Q. Do you know whether she deposited that money with some person here?

A. I do not.

Q. Did she deposit that money with any person?

A. She had a cousin here, who used to work for Smith, Bell & Company. His name was Ricardo Sumer. I do not know whether or not she ever gave him this money for safe keeping. I cannot say, because I never wanted to interfere in her business.

Q. Where is that cousin now?
A. He has gone to Spain. I am not sure, but I think he has gone to Spain.
Q. How is it, Mr. Enriquez, that your wife, during all that time, never told you in some way or other that she had deposited that money or that she kept that money in some place?
A. No, sir. She had her own wardrobe, where she kept her papers and things of interest. I never interfered in her personal affairs, as we had long before agreed.
Q. Was that a wooden wardrobe?
A. It was an ordinary wardrobe.
Q. Did she have an iron safe?
A. No.
Q. Do you know where she kept the money?
A. No.
Q. Do you know whether she kept that money in her wardrobe all the time?
A. I never searched her wardrobe. She managed her own money. I know nothing about that.
272 Q. Did she have that money when you removed to the other house?
A. I cannot give you any details about that—cannot answer so many questions. I do not know.
Q. The money she paid Victoriano Reyes at the house was hers?
A. Yes, sir, I have said so before.
Q. Do you know whether she brought that money from the provinces?
A. I presume so.
Q. Where did she first get that money she brought from the provinces?
A. This happened some twenty-five years ago. How can you expect me to remember such things? I have no recollection.
Q. When you left the Province of Iloilo in that year did she take that sum of fifteen hundred pesos with her?
A. I do not know.
Q. Has your wife acquired any money by inheritance?
A. I do not think so.
Q. Did your wife get that money by donation from someone?
A. I do not know.
Q. Did your wife at that time engage in the purchase of real estate?
A. No, sir, she did not.
Q. Is it not true that on March 27, 1883, a public instrument was executed showing that your wife had bought the house on Calle David from Antonio Enriquez, deceased, for the sum of eight thousand pesos?
A. That took place in my father's lifetime.
273 Q. That was two or three days before he left for Spain, was it not?
A. When we returned, my father expressed his desire to dispose of that property, and something was then said about selling it.
Q. When was that?

A. Long before my father's sickness, and my wife then said that rather than see the property sold to somebody else she would buy it herself.

Q. To whom did she say so?

A. To my father.

Q. Were you present when she said that to your father?

A. Yes, sir.

Q. Where did she say that to him?

A. At the nouse on Calle David, but this was long before my father's illness.

Q. Who else was present when she said that?

A. I do not remember.

Q. The conveyance was executed and signed four days before your father left for Spain, was it not?

Mr. CHICOTE: I object to such questions. All that appears in a public instrument.

The COURT: Mr. Chicote is right. The instrument itself is the best evidence.

Q. Then you know that your father sold that property to your wife, do you not?

A. Yes, sir.

Q. The money invested by your wife in the purchase of that house on Calle David belonging to your father came out of the fifteen hundred you said she had in her wardrobe?

274 A. I suppose so.

Q. When did you say, Mr. Enriquez, that your father was taken ill?

A. In October, 1882.

Q. Did you say your father was taken ill in the month of October, 1882?

A. Yes, sir.

Q. That first attack your father had, was it something serious?

A. As to my father's sickness, subsequent critical condition and later improvement I have given a full account in my letter of December thirtieth, 1882. In it I fully explained everything with reference to his improvement in health, in detail,—this at a time when no ill-feeling existed between us.

Mr. MONTAGNE: I ask that the answer of the witness be stricken out, not being responsive to my question.

The COURT: I think it is responsive.

Mr. MONTAGNE: Exception.

Q. Can you state whether the first attack your father had was serious?

A. I say in that letter that the first attack was serious, very serious. All attacks of that nature are generally serious.

The COURT: The letter itself having been read, it is not necessary to mentioned it, but simply ask the questions with reference thereto.

Q. You say that your father continued in a critical condition on Calle David until he was removed to the Escolta?

275 A. His condition was critical during the first days.

Q. Is it not true that the doctor who was treating your father advised you and your family to have your father removed to the house on the Escolta, that he might not have unpleasant recollections from things around the house where his wife had died?

A. Such were my wishes, and the doctor suggested the removal; but my father refused to do it. The physicians, however, insisted that he should remove to the other house, and told him that he could not continue there.

Q. Your father did not want to leave the house, did he?

A. No, sir, he did not.

Q. Why not?

A. He had lived in that house for many years with my mother; it was a great pleasure to him to be in the place where he had lived with her so long.

Q. How was he induced to leave the house?

A. The doctor interfered, and my uncle, who was then Governor, told him that it was necessary to leave the house.

Q. What did your father say?

A. That if the doctor and his brother insisted on his leaving the house he would leave it, but against his will.

Q. Do you know how long after he was taken sick he remained on Calle David?

A. He removed to the Escolta about the middle of December of that year.

Q. Then he remained in the house on Calle David for about two months after he was taken sick, did he not?

A. He was taken sick in October, about that time.

276 Q. Was he unable to remove to the Escolta in November?

A. I think it was about the middle of December. I do not remember whether in that letter I said anything about his removal, but that letter was written while on the Escolta.

Q. How was your father removed from Calle David to the Escolta?

A. Two months after he was taken sick he could walk a few steps, assisted by two persons.

Q. Could he walk around while on Calle David?

A. He could not walk. He was not in a condition to walk.

Q. Did he descend the steps without any assistance?

A. He was taken down stairs by my uncle and myself, in our arms.

Q. And your brother Antonio, did he not help?

A. I do not remember whether he was inside. I cannot remember such minor details.

Q. Then you mean to say that you and your uncle alone helped him?

A. Everybody helped to take him downstairs.

Q. When you arrived at the house on the Escolta did he go up the steps alone?

A. I do not remember. He did not by himself; he was put on a chair and taken upstairs.

Q. And continued in the house on the Escolta until he left for Spain, did he not?

A. The removal to the Escolta was merely temporary, as the matter of his trip had not been finally decided upon. Everything in the house on Calle David was allowed to remain there.

277 Q. But when he left for Spain he was on the Escolta, was he not?

A. Yes.

Q. Then you mean to say that the only reason for your father's removal to the house on the Escolta was because the doctor and the family were of the opinion that it was not convenient that he should continue in a place where he had lived with your mother, and the object was to dispel any unpleasant recollections?

A. Yes, sir, and I think that that was more than a sufficient reason for his removal.

Q. Have you any public document relating to the separation of property between yourself and your wife?

A. I must have it. That was a private document.

Q. When was it executed?

A. I cannot state the date, because that happened many years ago.

Q. Do you remember who were the tenants of the house here in controversy, from the years 1884 to 1890?

A. No, sir. They were Chinese. After such a long time I cannot remember so many things.

Q. Do you keep any book or account showing the receipts of rent from the house?

A. My wife knows that.

Q. Does your wife keep such books and account?

A. I don't know; I have already told you that I never interfered with her business.

Q. You mean to say that you do not know whether there are any books or account showing the receipts from that property?

278 A. No.

Q. Have you ever seen any book or account with reference to collections from that property?

A. No.

Q. Do you not know the names of the occupants of the house?

A. No.

Q. Did you collect rent from that property from 1890 to 1900?

A. No.

Q. Do you know whether any book or account showing the rents received from that property during that year exists?

A. No, neither.

Mr. MONTAGNE: That is all.

Mr. Chicote then introduced in evidence the document attached to the record of Case No. 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public instrument, which said document appears on Pages 132, 133 and 135 to 139 of the said record. Copies of these documents are attached to the record and numbered 25, 14 and Letter "G," which have also been introduced in evidence by the plaintiff.

Mr. Nontagne objected to the introduction of the document marked Exhibit "25," as being hearsay and having no bearing on this case, and further because it is a document not signed by Antonio Enriquez.

The Court then stated that the document in question, being a judicial order signed by the clerk of the Court, he would allow the same in evidence.

Mr. Montagne then objected to the admission of this document, for the reason that the same is not signed by any of the defendants in this case.

279 The Court remarked that it would not allow the document were it not for the fact that it was signed by a clerk of the court.

I certify that the foregoing is a true and correct transcript of the testimony of Francisco Enriquez.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

280 EXHIBIT "D."

Ignacio Tambunting Lampa, Presbyter, High Notary and Custodian of the Archives of this Archbishopric of Manila, do hereby certify that on Pages 2, 3, 5, 11, 12 and 13 of the proceedings instituted at the request of Antonio Enriquez y Sequera, in regard to the amendment of the certificate of baptism of his daughter Maria Rosaria Sofia, the following appears: "I, José Maria Guevara, Parish Priest of this District of Quiapo, city of Manila, hereby certify that on page 244, book V of the Registry of Marriages of this parish the following entry appears:

" 'On the ninth day of June, eighteen hundred and sixty-five, I the undersigned parish priest of this District of Quiapo, hereby certify that, the reading of the three bans prescribed by the Holy Council of Trent having been dispensed with, and there being to my knowledge no impediment thereto, I joined in marriage on the eighteenth day of September, in facie eclecie, according to the rites of our Holy Mother Church, in this parish, Antonio Enriquez y Sequera and Ciriaca de Villanueva y Sierra, the former being the son of Francisco Enriquez and Gertrudis Sequera and the latter the daughter of Juan de Villanueva and Maria del Carmen de Sierra. In witness whereof I sign hereon, in the presence of the Reverend Eusebio de Leon, Fray Juan Martinez of the Order of San Juan de Dios, Lucia de Villanueva and Maria Infante.—José Maria Guevara.—The foregoing is a true copy of its original, to which I refer. Parish House of Quiapo, September thietieth, eighteen hundred and sixty-eight.—José Maria Guevara. There is an illegible seal impression on the margin.—"

281 To the Vicar-General.—Antonio Enriquez y Sequera, European Spaniard and a resident of the district of Binondo, respectfully states: that before contracting marriage with his present wife, Ciriaca Villanueva y Sierra, he had a child by her, who, under

the name of Maria Rosaria Sofia, was baptized in the Parish Church of the District of San Miguel on the eighth day of October, eighteen hundred and fifty-four; that having noticed with disgust that certain errors, to the great prejudice of the party in interest and of her family, were made in the certificate of such baptism,—in this, that it is stated therein that the child was of unknown father, whereas your petitioner is really and truly the father and Ciriaca Solis the mother of the child, the latter therefore being surnamed Villanueva y Sierra, her godmother being one of her own sisters, Dolores Enriquez, who also appears surnamed Solis,—he is compelled to apply to you with the request that upon consideration of this petition and the documents thereto attached, and after the necessary proceedings are had, to declare that the said Maria Rosaria Sofia is the natural child of your petitioner, by Ciriaca Villanueva y Sierra, and that she was legiti-mized by the subsequent marriage of her parents, and that her godmother was Dolores Enriquez. Manila, January thietieth, eighteen hundred and seventy-eight. Respectfully.—Antonio Enriquez.—To the Vicar General of the Archbishop of Manila.—The undersigned parish priest of the District of San Miguel, in compliance with the foregoing order begs to inform your honor that the party *at* whose request these proceedings were instituted called at this parish house and asked for a certified copy of the certificate of baptism of his daughter, referred to in said petition. The parochial books
282 under my charge contain no other entry than that quoted above. It is to be presumed that this certificate referred to his said daughter, because it agrees as to the date on which the ceremony took place and the age which he claims the child had; it also agrees with the name of the mother and that of the godmother. Therefore, the undersigned believes it to be just and legal that his petition be granted. This is all that the undersigned has to report to your honor. Parish House of the said District, this thietieth day of January, eighteen hundred and seventy-eight. Facundo Gonzalez. To the Honorable Ecclisiastical Judge and Vicar General.—The Ecclesiastical Procurator has noted the contents of this proceeding, instituted at the request of Antonio Enriquez, with regard to the rectification of the certificate of baptism of the latter's daughter.—It having been sufficiently demonstrated, by the testimony of three witnesses, appearing on Pages 7-9 of these proceedings, that the girl named Maria Rosaria Sofia referred to in the petition on page 1 is the daughter of Antonio Enriquez y Sequera and Ciriaca Villanueva y Sierra, and not Solis as erroneously stated in the certificate of baptism aforesaid, born to them at a time when there was nothing that could have prevented them from marrying, they having subsequently married on the ninth of June, eighteen hundred and seventy-five, as expressed through the canonical instrument on page two, and the mother having finally acknowledged the said Maria Rosaria Sofia as her own daughter, and the latter having in turn acknowledged the said Antonio Enriquez and Ciriaca Villanueva as her true parents, there being no objection on her part to the granting of the petition on page three, the Procurator sees no objection to
283 the making of an entry on the margin of the said certificate of baptism to the effect that the child referred to therein is the

actual daughter of Antonio Enriquez y Sequera and Ciriaca Villanueva y Sierra, and that she was legitimized by a subsequent marriage of her parents on the aforesaid date. This is the opinion of the undersigned. Your honor, however, may take such action as he sees fit. Manila, February 5, 1878.—L. Pedro F. Martinez. Fee, two pesos.—Ordered, upon consideration of the documents on pages 1 and 2 of these proceedings, of the petition on page three, the contents of which were ratified by the petitioner as appears on page 4; of the report on page 5; of the result of the testimony given by the witnesses introduced in these proceedings, pages 7-9; and the statement made by Ciriaca Villanueva y Sierra and Rosaria Enriquez in the proceedings, pages 9-10; and taking into consideration the opinion of the Procurator in these proceedings, the request contained in the petition on Page 3 is hereby granted, and it is ordered that the parish priest of the District of San Miguel, with a copy of this order, which shall be entered upon the register of his parish, make an entry on the margin of the certificate of baptism on page 48 of Book Six of the Registry of Baptisms of his church, to the effect that the child Maria Rosaria Sofia, therein referred to, is the natural daughter of Antonio Enriquez y Sequera and Carmen Ciriaca y Villanueva, and that she was legitimized by subsequent marriage on the 9th of June, 1875, on which date her parents were married in the parish church of the District of Quiapo; further, that the godmother of the said child was Dolores Enriquez and not Solis as erroneously stated therein. It is so ordered. It is ordered, adjudged and de-
284 creed by the Honorable, the Vicar-General of this Archbishopric of Manila, this sixth day of February, 1878, to which I certify. Vicente Cuyugan.

And in compliance with the order of the twentieth instant I issue these presents, on four sheets of paper, which I sign with the approval of the Ecclesiastical Governor of this Archbishopric of Manila, this twenty-second of May, nineteen hundred and five.—Ignacio Tambunting.—Attested, Y Ampuero Ecclesiastical Governor.

285 EXHIBIT "D."

Certificate of Marriage (Rough Draft).

On this nonth day of June, eighteen hundred and seventy-five, I the undersigned parish priest of the District of Quiapo, do hereby certify that, the reading of the bans provided for by the Holy Council of Trent having been dispensed with, and there being to my knowledge no impediment thereto, I join in marriage on the eighteenth day of September, in facie eclecie, according to the rites of our Holy Mother Church, in this parish, Antonio Enriquez y Sequera and Ciriaca Villanueva y Sierra, the former being the son of Francisco Enriquez and Gertrudis Sequera and the latter the daughter of Juan de Villanueva and Maria del Carmen y Sierra. In witness whereof I sign hereon, in the presence of the Reverend Eusebio de Leon, Fray Juan Martinez of the Order of San Juan de Dios, Lucia de Villanueva and Maria Infante, witnesses. (No signature.)

EXHIBIT "D."

To his Excellency the Archbishop:—

Antonio Enriquez y Sequera, an employee of the Department of Finance and a resident of the District of Binondo of this city, respectfully begs to state that, it being convenient to him for such purposes as may be proper that an entry be made in the Registry of the Parish Church of Quiapo of the certificate of the secret marriage, contracted by him with Your Excellency's authority, with Ciriaca Villanueva, when the latter was in imminent danger of death, before the Parish Priest of the said District of Quiapo, in which District your
286 petitioner resided, he respectfully requests that the necessary orders be given, so that an entry as aforesaid be made upon the parochial registry of the District of Quiapo, deeply appreciating the favor thus conferred. Further your petitioner begs to state that subsequent to his former marriage he had a son by his wife, surnamed Manuel.

Manila, April 28, 1868.

287 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance for the City of Manila, Part II.

Civil Case No. 883.

RAFAEL ENRIQUEZ, in His Own Right and as the Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez, Gertrudes Enriquez, Antonio Gascon, Minor,

vs.

FRANCISCO ENRIQUEZ and DOÑA CARMEN DE LA CAVADA, His Wife.

Decision.

This case is now before the Court for trial upon a complaint by the plaintiff to have a deed of property described in the complaint, executed by one Antonio Enriquez y Sequera, deceased, declared null and void; that one half of said property be declared to form part of the estate of said Antonio Enriquez y Sequera, deceased; that the other one-half be declared to be the undivided property of the plaintiffs and the defendants, and one Carmen Enriquez, and that the defendants be declared to have no interest in said property exclusive of the plaintiffs, and that the plaintiffs recover from the defendants the rents and profits of said property, inclusive of the year 1884, to the present time.

Mr. A. A. Montagne appeared in behalf of the plaintiffs; Mr. A. D. Gibbs for the defendants.

288 This case was heard a long time ago, and the judgment of the Court has been ready for entry for a long time, but has

not been rendered for the reason that the parties to the action proposed to settle the matter among themselves in connection with the settlement of the estate of Antonio Enriquez y Sequera, deceased, and of his deceased wife, Ciriaca Villanueva, but the settlement of -his matter failed in connection with the settlement of at least a portion of said estate.

A great mass of evidence has been introduced in this case, both with and without objection. Ruling upon the admissibility of much of the evidence offered was not made at the time of the offer, because it was not read, or otherwise presented, so as to be digested by the Court.

Out of all the evidence presented which the Court has deemed proper to be considered in determining this case, it finds:

That the plaintiff, Rafael Enriquez, is one of the sons and heirs of Antonio Enriquez y Sequera and Ciriaca Villanueva, deceased;

That he is also the duly appointed, qualified and acting administrator of the estate of the said Antonio Enriquez y Sequera, deceased;

That the plaintiffs, Antonio Enriquez, Trinadad Enriquez, Cayetano Enriquez, Rosario Enriquez and Gertrudes Enriquez, are children and heirs of the said Antonio Enriquez y Sequera, deceased;

289 That the plaintiff, Antonio Gascon, is a minor represented by his curador ad litem, Nazario Constantino, in this action, he, the said minor, being the child of Concepcion Enriquez, and that the said Concepcion Enriquez was a daughter of and heir to the said Antonio Enriquez y Sequera, deceased.

That the defendant, Carmen de la Cavada de Enriquez, is the wife of the defendant Francisco Enriquez;

That the said Antonio Enriquez y Sequera died about the last day of July, 1884, leaving the above named heirs;

That the defendant, Francisco Enriquez, was named as executor of the last will and testament of said Antonio Enriquez y Sequera, deceased, and as such took possession of all the property of which he, the said Antonio Enriquez y Sequera, died seized;

That on the 27th day of March, 1883, prior to the death of said Antonio Enriquez y Sequera, he executed a deed, whereby he sold and transferred to the defendant, Carmen de la Cavada de Enriquez, wife of the defendant Francisco Enriquez the real-estate described in said deed, and set forth in the complaint herein;

That the real-estate thus sold and transferred was acquired by him in the year 1861, and that the said Antonio Enriquez y Sequera, deceased, had lived with his wife, one Ciriaca Villanueva, for a long period of time prior to the said year 1861;

That he had as children the above named plaintiffs and the
290 defendant Francisco Enriquez, and one Carmen Enriquez;

That said property was the result of gains arising while the said Antonio Enriquez y Sequera and the said Ciriaca Villanueva were living together as husband and wife, and was the proceeds of their joint labor;

That a marriage ceremony appears to have been celebrated be-

tween the said Antonio Enriquez y Sequera and the said Ciriaca Villanueva in the year 1865;

That prior to the said celebration of the marriage ceremony, the said Antonio Enriquez y Sequera and the said Ciriaca Villanueva were recognized as married to each other, and their children were baptized as the legitimate children of their alleged marriage, prior to the date of the said marriage ceremony;

That the said Ciriaca Villanueva died in the year 1882, and prior to the execution of the said deed, as aforesaid, and the said Antonio Enriquez y Sequera entered into the administration of her estate in connection with his own, as a joint estate;

That he was not authorized by will, or otherwise, so to do, nor was he ever authorized to sell or transfer any property belonging to the estate of the said Ciriaca Villanueva, his deceased wife;

That the value of the premises sold and transferred, as aforesaid, at the time of the transfer and sale, was the sum of fourteen thousand or more pesos, and that the purchase price was stated in the deed as eight thousand pesos, three thousand pesos paid in cash, and
291 five thousand pesos to be paid to the Sagrada Mitra;

That the purchaser, the defendant Carmen de la Cavada de Enriquez, was the wife of the defendant Francisco Enriquez, and well understood and knew all the facts and conditions as hereinbefore set forth;

That the plaintiffs, Rafael Enriquez and Antonio Enriquez, together with the defendant Francisco Enriquez, entered into a written agreement in November, 1897, whereby it was agreed that the property described in the complaint, sold as aforesaid by the said Antonio Enriquez y Sequera to the defendant Carmen de la Cavada de Enriquez, was excluded from the administration of the estate of the said Antonio Enriquez y Sequera;

That subsequently, and almost immediately after the making of said agreement, the said plaintiffs, Rafael Enriquez and Antonio Enquez, discovered what they believe to be a fraud in the transfer, as per the deed aforesaid, and proceeded to reclaim the same from the defendant Francisco Enriquez, which proceeding culminated in the present action.

It is alleged that the deed hereinbefore described was a forgery, and never was signed or executed by the said Antonio Enriquez y Sequera, deceased, and that at the time of its execution, as appearing upon its face, he, the said Antonio Enriquez y Sequera, was wholly incapacitated from executing the same.

While there is much contradictory evidence on this point,
292 and while it appears from the recitations of the deed, that the price as agreed upon was the value of the premises, and that if it was more or less that one-half of the just value it was to be considered as a donation, and claim on account thereof was waived, and that the vendor could not on account of paralysis sign the deed and that it was signed at his request by another, and it further appearing that it was not executed at the place in which it is stated in the deed it was executed, and much doubt is reised in relation to the proper execution of the deed, yet I am unable to find that the grantor did

not execute the deed, or that he was mentally incapacitated from so doing, so as to render the deed a forgery, or make the transfer void.

The evidence that he was physically incapacitated and suffering from paralysis, so that he was unable to move about, and so that he could not talk plainly or at times at all, di- not necessarily impair his mental faculties so as to make him incapable of understanding what he was doing.

I further find, that the property described in the complaint was obtained by the said Antonio Enriquez y Sequera, deceased, during the existence of the marriage contract between said Antonio Enriquez y Sequera and the said Ciriaca Villanueva, and was "gananciales", the evidence produced that the marriage ceremony celebrated between the said Antonio Enriquez y Sequera and the said Ciriaca Villanueva in the year 1865, not being sufficient to overcome
293 the presumption that living as husband and wife, which I find they had done for nearly twenty years prior to said purported marriage ceremony in 1865, they had entered into a lawful contract of marriage.

The said Ciriaca Villenueva had, prior to the said celebration of the marriage ceremony, borne many children to the said Antonio Enriquez y Sequera, and I am unable to find that these children were born out of wedlock, and were bastards, simply because there is an irregular record made at the request of the said Antonio Enriquez y Sequera, of the marriage ceremony performed later.

These people were Spaniards of the better class, and it is not reasonable to suppose that they lived together as husband and wife for nearly twenty years, and had many children and caused them to be baptised in the Catholic Faith, making the record at the time of the baptism that they were the legitimate offspring of their legitimate marriage, as I find they did, unless they had entered into the marriage contract, and the marriage ceremony had been duly celebrated.

Loss of the record of the first marriage, or some like reason, might have made the second ceremony seem necessary, and for that reason it was celebrated.

The conclusions are:

That Rafael Enriquez is the duly appointed, qualified and acting administrator of the estate of Antonio Enriquez y Sequera, deceased, and as such is entitled to bring this action;

294 That the plaintiffs, Rafael Enriquez, Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez and Gertrudes Enriquez, are the children and lawful heirs of Antonio Enriquez y Sequera, deceased, and of Ciriaca Villanueva; that the plaintiff, Antonio Gascon, as represented by his duly appointed guardian Nazario Constantino, is the minor, legitimate and only child of Concepcion Enriquez, deceased and that the said Concepcion Enriquez was one of the children and heirs of the said Antonio Enriquez y Sequera and said Ciriaca Villanueva, the said minor, Antonio Gascon, thus becoming an heir to the said Antonio Enriquez y Sequera and the said Ciriaca Villanueva, through his mother, who died subsequent to the death of said Antonio Enriquez y Sequera and said Ciriaca Villanueva, and as such were all entitled to bring this action;

That the plaintiffs, Rafael Enriquez and Antonio Enriquez, and those whom they represent, are not estopped by the execution of the documents of November 3rd and November 20th, 1897, from claiming the delivery and possession of the property described in the complaint they having commenced proceedings for the recovery within the time limited by law, after they discovered fraud and error in the transfer of a portion of the property described in those documents;

That the property described in the complaint was gains during the existence of the marriage contract between the said Antonio
295 Enriquez y Sequera and said Ciriaca Villanueva.

That the said Antonio Enriquez y Sequera was not authorized to and could not and did not dispose of more than the one-half of the property described in the complaint which belonged to him, and to his right of usufruct in the other one-half, the latter determinating at his death, by the deed which he executed to the defendant Carmen de la Cavada de Enriquez;

That the plaintiffs herein are entitled to the possession of the undivided one-half of the property described in the complaint, together with the value of the use thereof, since deprived thereof by the defendant Carmen de la Cavada de Enriquez, which is found to be the sum of Thirteen Thousand Two Hundred and Fidty Pesos;

That a portion of this amount would be due in Mexican Currency, and that the value of One Dollar, Mexican Currency, is equivalent to and equal to One Peso, Philippine Currency;

That against this the defendant, Carmen de la Cavada de Enriquez, is entitled to offset one-half of the cost of administering the whole of said property, including repairs and improvements thereon.

Let judgment be entered in favor of the plaintiffs, Rafael Enriquez, Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez, Gertrudes Enriquez, and Antonio Gascon, and against the defendants, Francisco Enriquez and Doña Carmen
296 de la Cavada Enriquez, for the restitution and possession of the undivided one-half of the real estate described as follows:

"A house of rough stone and mortar and the lot upon which it stands on Calle David, District of Binondo, numbered 9, bounded on the right by the house of rough stone and mortar of Josefa Sembrano; on the left, by a small house also of rough stone and mortar of Jose Zaragoza; and according to the old title papers, it is bounded on the front by the road leading to the landing place on the river Sibacon; on the right by the house of rough stone and mortar of the deceased Alejandro de los Reyes; on the left by the house of Eustaquio de Ocampo; and on the back by the property of the deceased Father Lucio Victoria; which said property he acquired by purchase from Juan Veloso Evangelista representing Gavino Veloso del Rosario on July 1st, 1861 according to a public instrument numbered 137 executed before the Notary Mariano Salo", and against the defendant, Carmen de la Cavada de Enriquez, for the sum of Thirteen Thousand Two Hundred and Fifty Pesos, Philippines Currency, and One Hundred and Seventy Pesos, Philippine Currency, per month, from April 27th, 1905, less one-half of the cost of the administration of the whole of said real estate, inclusive of repairs

and improvements made thereon since March 28th, 1884 she to render an accounting of such costs forthwith, and for the costs of this action.

Manila, P. I. May 21st, 1906.

(Sgd.) A. S. CROSSFIELD, *Judge.*

297 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

RAFAEL ENRIQUEZ and Others
vs.
FRANCISCO ENRIQUEZ and Others.

Come now the defendants, and except to the judgment of the Court, and ask for a new trial, upon the grounds:

1. That the said judgment is plainly and manifestly against the weight of evidence;

2. That the judgment is contrary to law;

Manila, May 24, 1906.

(Signed) W. A. KINCAID,
Attorney for Defendants.

Received copy this twenty-fourth day of May, 1906.

(Signed) A. A. MONTAGNE,
Counsel for Plaintiffs.

Indorsed.

(Title of Court and Cause.)

To A. A. Montagne, Attorney for plaintiffs.

SIR: You are hereby notified that on Saturday, the twenty-
298 sixth instant, at eight a. m. or as soon thereafter as may be possible, the undersigned will submit the foregoing motion to the Court, for decision.

Manila, May twenty-fourth, nineteen hundred and six.

(Signed) W. A. KINCAID,
Attorney for Defendants.

Received copy this twenty-fourth day of May, nineteen hundred and six.

(Signed) A. A. MONTAGNE,
Attorney for Plaintiffs.

(Title of Court and Cause.)

W. A. Kincaid, Attorney for defendants.

SIR: You are hereby notified that on Saturday, the twenty-sixth instant, at eight a. m. or as soon thereafter as possible, the undersigned will submit to the Court the foregoing motion for decision.

Manila, May twenty-fourth, nineteen hundred and six.

(Signed) A. A. MONTAGNE,
Attorney for Plaintiffs.

Received copy this twenty-fifth day of May, nineteen hundred and six.

W. A. KINCAID,
Attorney for Defendants.

299 (Title of Court and Cause.)

Come now the plaintiffs, and specifically except to that part of the judgment of this Court wherein it is adjudged and decreed that the deceased Antonio Enriquez y Sequera had signed and executed the instrument of sale which is the subject of this litigation, with full capacity therefor, for the following reasons:

1. Because that part of the judgment is plainly and manifestly against the weight of evidence;
2. Because that part of the judgment is contrary to law.

Manila, May 25, 1906.

(Signed) A. A. MONTAGNE,
Attorney for Plaintiffs.

Received copy this twenty-fifth day of May, 1906.

(Signed) W. A. KINCAID,
Attorney for Defendants.

(Title of Court and Cause.)

Come now the defendants and except to the order of this court denying the motion for a new trial, and hereby give notice of their intention to present a bill of exceptions, and ask for thirty days' time from the twenty-eighth instant to do so, on account of the voluminous record and the long period of time which has elapsed from the date of the trial to the date on which judgment was rendered.

Manila, 26th of May, 1906.

(Signed) W. A. KINCAID,
Attorney for Defendants.

The foregoing petition is granted.

(Signed) A. S. CROSSFIELD.

300 CALIXTO VILLAFRANCA, witness for plaintiffs, being first duly sworn, testified as follows:

Questions by Mr. MONTAGNE:

Q. Please state your name?
A. Calixto Villafranca.
Q. Where do you live?
A. At the Quiapo Convent, Miranda Square.
Q. What is your occupation?
A. I am the Parish Priest in charge of the church.
Q. Do you mean the Parish Priest of the Quiapo Church?
A. Yes, sir.

Q. Have you with you the original Registry of Marriage belonging to your church?

A. Yes, sir, in accordance with yesterday's subpœna.

Q. Can you let me see it?

A. Here it is (handing the book to the attorney.)

Mr. MONTAGNE: I now offer in evidence that part of the Book marked Book V of Marriages, which I hold in my hands, having been delivered to me by the witness, found on page 244, being the second or last entry in that book, and ask the Court to examine particularly the first line thereof, wherein reference is made to the year, with a glass, and to look at the paper through the light.

The COURT: It seems clear that the word "five" has been written upon another word on the page, and the word "and" is crossed out by a line, simply tending to show that it might have been in the year 1860.

Mr. MONTAGNE: I also wish, for the purpose of showing
301 that the entry in this book, if made properly, was not made at the same time as the marriage actually took place, to note the two entries immediately preceding and the two immediately following that particular entry, and particularly the date of this entry. These entries show that they were made in the year 1868. I also desire to offer in evidence page 205 of the same book.

The COURT: The Registry shows, from an examination of the entry relating to the marriage of Antonio Enriquez y Sequera and Ciriaca Villanueva, that the date was 1865, and that the word "five" was written upon an erasure made on the page and the word "and", between the words "sixty" and "five" shows a pen mark; that the certified copies in the original registry, which immediately precedes the entry of the certificate of marriage, above described, appear to have been made out in September, 1868, and the certificate immediately preceding appears to have been written in August, 1868, and that the certificate in the original Registry, which immediately follows the certificate of marriage above described, appears to be dated September 5, 1868.

Mr. MONTAGNE: For the purpose of showing that this entry was not really made at the time the marriage actually took place, if it ever took place at all, I wish to offer in evidence page 205 of the same book, a note entered on the margin of that page, which reads as follows: "The entry as to the marriage of Antonio Enriquez y Sequera and Ciriaca Villanueva y Sierra, will be found on page 244 of this book." I wish to call the attention of the Court to the
fact that the certificate entered on that page 205, where this
302 marginal note is found, is dated June 22, 1865.

The COURT: The certificate entered immediately after the note above described, and shown on the margin of page 205, appears to be dated June 22, 1865.

Cross-examination by Mr. GIBBS:

Q. I call the attention of the witness to the second certificate on page 245, the same being the certificate of marriage of the deceased and his wife, also to the marginal note opposite the first certificate

on page 205 of this Registry of Marriages, and will ask him to state to the Court, as fully as he can, how these entries occurred in that manner.

A. The Procurator and the Parish Priest in charge at that time are now dead. The only thing, I suppose, is that this entry (indicating the marginal note in question) should have been entered where the marginal note is. This is the practice when through mistake, or otherwise, the entry is not made in the proper place; the marginal note is made in the same place to indicate the error. This is the custom of the church where the marriage is celebrated and veiling ceremony takes place later.

Q. How do you account for the fact that the place where the word "five" is written shows an erasure, upon which the word "five" is, on the first page of the certificate in question, between the two certificates, and that both the preceding and subsequent certificates are dated 1868?

Mr. MONTAGNE: I object to the question, as incompetent, irrel-*avnt* and immaterial, and because it calls for the opinion of the witness as to how the erasure was made. The witness has no personal knowledge of the erasure, and has no information with regard thereto. The witness is called upon to testify as to a
303 mere matter of opinion and not upon a matter within his own knowledge.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. That can be very easily explained. The note is entered in the Registry, in the place where the entry was made, and the note referred to the place where it is actually found.

Q. And with reference to your opinion and the knowledge, after an examination of the two entries and erasures, how do you account for the erasure, and what word do you think was erased, for which the word "five" was substituted?

Mr. MONTAGNE: I object to the question, as incompetent, irrelavant and immaterial, and because the witness is called upon to testify as to matters not within his memory, which can not be proved, disproved or explained by the witness's information.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. That appeared there, from the fact that the word "eight", formerly appearing in the certificate, was changed to "five" and the erasure made it correct. An order exists that no erasure shall be made in the Registry, but that interlineations may be made to correct any errors. In this case, as they did not comply with the order, the erasure already made is worthless.

Q. Assuming that the original entry in this book was not made until 1868, following the entry immediately preceding, in what manner would you say that the note on the Registry, or the date of the marriage, has been preserved in the church?

304 A. Before the marriage ceremony takes place, the memorandum notes are taken and preserved if the parties are

foreigners or residents of a foreign country, in the office of the Vicar-General, and the Ecclesiastical Courts direct that notice thereof be published at the Parish Church, and then, they are married.

Q. In what kind of book are those notes recorded, immediately before marriage?

A. In the Court and Office of the Vicar-General.

Q. Is that an Ecclesiastical Court?

A. Yes, sir, it is.

Q. Have you seen the notes taken with reference to this marriage?

A. I do not have the notes for examination. You can find out from the Notary of that body, where they have been kept by them. I do not know whether they have preserved them at all; I am not sure whether any notes were taken in this manner.

Q. Have you any other church Registry showing the date of this marriage?

A. I will search for it in the archives, where it is likely to be found; but this is the only Registry of Marriages. The Book containing the memorandum notes with reference to this marriage may perhaps be found in the Ecclesiastical Court. In this particular case the Registry must be there, because it appears from this certificate that dispensations were granted and that no bans were published.

Q. When were those notes sent to the Ecclesiastical Court?

A. On the same date shown there; perhaps a few days before; it must have been prior to the 9th of June, 1865, when the marriage took place.

305 Mr. MONTAGNE: I need the Registry, in order to show that the marginal note appears on page 205 of the Book of Marriages. This entry appears to be in the same handwriting, and written with the same kind of ink, and the whole note seems to have been made at the same time.

The COURT: I think Mr. Montagne is right.

Redirect examination by Mr. MONTAGNE:

Q. When a certificate is written in that book, where do you get your data, as to dates, and so forth?

A. There is a book kept at the church, which contains this information; and when the certificates are actually entered the dates are taken therefrom.

Q. Where is that book?

A. At the church, and on the same day the parties are married. They also sign their names.

Q. Did you use the book from which that information was taken?

A. I was not the parish priest at that time; I do not know.

Q. Do you have your book under your charge now?

A. I will look it up, and if it is not there it must be in the Ecclesiastical Court.

The COURT: Then the certificates appearing in this book were not made at the time the marriage actually took place?

A. Yes, sir, the notes were made and the Clerk would thereafter make out the certificate.

The COURT: Then the Clerk writes out the certificates whenever it may be convenient to do so, does he not?

A. Yes, sir; that is how it is done.

Q. Then this certificate was probably entered in eighteen sixty-eight, and the marriage actually took place in 1865, but
306 the Clerk did not see fit to record the same until then?

A. Yes, sir, or he may have forgotten to do so, and having found the certificate later he registered the same and made the marginal note.

Cross-examination by Mr. GIBBS:

Q. I wish to make this matter clear, so that there shall be no doubt as to the date on which the marriage actually took place. I wish you would mention all the places where the date of the marriage appears. You have referred to a blank note-book on which the date of the marriages was entered; also, to certain books or documents signed by the contracting parties: will you state whether those signatures were made in the same book where the date was entered?

A. Not in any book, no; the Registry only shows that they may be found in the Ecclesiastical Court.

The COURT: Then where did the contracting parties sign?

A. The contracting parties signed the Registry kept in the Ecclesiastical Court.

Q. Then, in addition to the Registry of Certificates, introduced here in evidence, the date was also entered in the original note-book, and upon the Registry kept by the Ecclesiastical Court, was it?

A. Yes, sir.

Q. With all this information before you would you have any doubt as to the date on which the marriage actually took place?

Mr. MONTAGNE: I object, on the ground that the question calls for the opinion and the conclusion of the witness.

The COURT: Objection sustained.

307 Mr. GIBBS: Exception.

Mr. MONTAGNE: Why, that is the whole question at issue.

Mr. GIBBS: Yes, that is the whole question, except that I want to find out the date on which this marriage actually took place, from the record of the Ecclesiastical Court.

308 Thereafter, to-wit, on the twenty-third of June, nineteen hundred and six, the Honorable A. S. Crossfield, Judge of the Court of First Instance of the City of Manila, certified and allowed the bill of exceptions presented by appellant in the above entitled cause.

Thereafter, to-wit, on the fourteenth of July, nineteen hundred and six, the said bill of exceptions was duly filed and docketed in the Supreme Court of the Philippine Islands.

On the third of November, nineteen hundred and six, counsel for defendants and appellants filed his brief in the Supreme Court, accompanied by the following assignment of errors:

I.

The Court erred in holding that the property in question was not the exclusive property of the deceased Antonio Enriquez;

II.

Assuming that the said property had been acquired during the marriage of the said deceased to Ciriaca Villanueva, the Court erred in holding that the same belonged to the conjugal partnership;

III.

The Court erred in holding that the surviving spouse, under the old legislation, had no power to dispose of the conjugal property, even without any reservation to his children;

IV.

The Court erred in holding that the sale of the property in question to the Defendant Carmen de la Cavada had not been confirmed by the plaintiffs;

309

V.

The Court erred in failing to hold that the action brought by the plaintiffs in this case was barred by the statute of limitations;

VI.

The Court erred in not holding that the defendant Carmen de la Cavada had acquired the property by prescription against the defendant and the other heirs of the deceased Antonio Enriquez y Sequera and Ciriaca Villanueva y Sierra.

On the 20th of March, 1907, counsel for plaintiffs and appellees filed his brief in the Supreme Court. Thereafter, and on the eighteenth of July, nineteen hundred and seven, the case was argued and submitted in the Supreme Court, which said Court, on the twentieth of September, nineteen hundred and seven, rendered the following decision:

THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellees,
vs.
FRANCISCO ENRIQUEZ et al., Defendants and Appellants.

Court of First Instance No. 883.

WILLARD, *J.*:

The plaintiffs brought this action in the Court of First Instance of Manila on the 2nd day of June, 1902, asking that a deed
310 made by Don Antonio Enriquez on the 27th of March, 1883, conveying to the defendant, Carmen de la Cavada, certain real estate in the city of Manila, be annulled and set aside. Judgment was rendered in the court below to the effect that the plaintiffs were the owners of an undivided half of the said real estate, and that the defendant, Carmen de la Cavada, should pay to the plaintiffs upwards of 13,000 pesos, as rents and profits thereof. Both parties moved for a new trial on the ground of the insufficiency of the evidence, but the plaintiffs in this Court have neither assigned as errors the rulings made against them by the lower court nor have they discussed any such rulings in their brief. So much of the decision, therefore, as is adverse to the plaintiffs we can not consider, and the questions to be resolved are those presented by the appeal of the defendants.

The decision of the court below was based upon the following facts, deemed by him to be established by the evidence, namely, that Don Antonio Enriquez and Dona Ciriaca Villanueva were legally married prior to the year 1860; that in 1861 the property in question was acquired by Don Antonio Enriquez; that it thereby became a part of the property belonging to the conjugal partnership; that Dona Ciriaca Villanueva died in 1882; that upon her death an undivided half of the property passed to her heirs, the plaintiffs; that when, in 1883, Don Antonio Enriqeuz undertook to convey the entire property to the defendant, Dona Carmen de la Cavada, he, as a matter of law, conveyed only one-half thereof, and that the other half remained, and now is the property of the plaintiffs.

The correctness of this decision depends upon the question
311 as to whether Don Antonio Enriquez and Dona Ciriaca Villanueva were legally married in 1861. The court below found, and the evidence sustains that finding, that a marriage ceremony was duly performed between these persons in 1865, but he held that the fact that prior to 1861 they had lived together as husband and wife, had been recognized as such, and had had children who were baptized as the legitimate children of their lawful marriage was sufficient evidence to raise the presumption that they were at that time legally married.

A marriage ceremony having been duly celebrated between these persons in 1865, it is necessary, in order to show that they were legally married before that time, to prove that the same kind of a marriage ceremony had theretofore been celebrated. Although, as held by the Supreme Court of the United States, by the common law of England, a valid marriage might be contracted without the intervention of any ecclesiastical or civil functionary. (Travers vs. Rheinhardt, 27 Supreme Court Reporter, 563, decided April 15, 1907) yet such was never the law in these Islands during the Spanish domination here. During the entire period of that domination, no valid marriage could exist unless some ecclesiastical or civil functionary intervened in its celebration, and the intervention of civil functionaries was limited to the short time elapsing between the eighth day of December, 1889, when the Civil Code took effect here, and the 29th day of the same month, when the provisions of Title 4, Book 1, of that Code were suspended. During the time covered by the lives of Don Antonio Enriquez and Dona Ciriaca Villanueva no valid marriage between them could be contracted by their mere agreement to live together as husband and wife.

312 There is proof in this case that a marriage, valid in accordance with the laws then in force in these Islands, was celebrated between these persons in 1865. In order to show that they were before that time husband and wife, it was necessary to prove that a marriage ceremony in which an ecclesiastical functionary intervened was duly celebrated. No proof of any such marriage was offered. As has been said, the fact that prior to 1865 they lived together as husband and wife and had children is not evidence in this case to show that they were married prior to that time. Nor is the fact that in the certificates of baptism of these children it is stated that they were the legitimate children of the lawful marriage of their parents.

The court below said: "Loss of the record of the first marriage, or some like reason, might have made the second ceremony seem necessary and for that reason it was celebrated." This consideration is to our minds entirely insufficient to explain the celebration of the second marriage. If the former marriage had taken place, it must have been celebrated before some priest or other officer of the Roman Catholic Church. The law required that a record of such marriages should be kept in the parish registry, and if such marriage in fact had been performed, it probably would have been easy to have obtained a certified copy of such record. No evidence was offered in this case of any attempt to obtain such record or that the records of the church where the ceremony had been performed had been destroyed. In fact, no proof whatever was offered in the case to show the celebration of such prior marriage, except the facts hereinbefore stated, that the parties lived together as husband and wife

313 and had children who were baptized as aforesaid. We hold that this evidence is insufficient to prove in this case a prior marriage, where it appears that a marriage ceremony was duly performed between the parties at a later date; and we therefore hold that Don Antonio Enriquez and Dona Ciriaca Villanueva were not

legally married prior to 1865, and that, therefore, when this property was acquired by Don Antonio in 1861 it did not become a part of the property belonging to the conjugal partnership, but on the contrary, was a part of the capital which he brought to the marriage. Being a part of the capital brought to the marriage by the husband, upon the death of the wife,—the husband surviving her,—no interest whatever therein passed to her heirs.

The judgment of the court below, which rests solely upon the proposition that at the time of the death of Dona Ciriaca Villanueva one-half of this property passed to her heirs, can not, therefore, be sustained. That judgment is reversed, without costs to either party in this court, and judgment is entered acquitting the defendants of the complaint, with the costs of the first instance against the plaintiffs.

So ordered.

Arellano, C. J., Torres, Johnson and Tracy, J. J., concurring.

On the 28th day of September, 1907, counsel for plaintiffs made a motion for a new trial in the Supreme Court on the ground: (1) That the evidence did not sustain the decision of said court. (2)
That the Court had failed to take into consideration the
314 fact that the defendant Francisco Enriquez had taken part
in the conveyance of the property in question; and (3) that plaintiffs had discovered new evidence, to wit: an original canonical book of the parish of San Miguel, Manila, from which it appears that the plaintiffs Carmen and Cayetanoo Enriquez were legitimate children, inlawful wedlock begotten, they having been baptized in 1858 and 1859, respectively. Motion denied October 1, 1907.

Thereafter on the twelfth of October, 1907, a final judgment was entered in the Supreme Court in the above entitled cause, as follows:

THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

Docket No. 3474.

RAFAEL ENRIQUEZ and Others, Plaintiffs and Ap-ellees,
vs.
FRANCISCO ENRIQUEZ and Others, Defendants and Appellants.

Judgment Book No. 4, Page —.

OCTOBER 12, 1897.

This Court having regularly acquired jurisdiction for the trial of the above entitled action, which was submitted by both
315 parties for decision, after consideration by the Court of
the record and proceedings in this case, its decision and order for judgment having been duly filed on the twentieth of September, nineteen hundred and seven;

It is hereby ordered that the judgment of the Court of First Instance of the City of Manila dated the twenty-first of May, nineteen hundred and six, be and the same is hereby reversed, without costs in this Court, and that the defendants be acquitted of the complaint, with the costs of first instance against the plaintiffs.

(Signed) R. HERES,
[SEAL OF COURT.] *Acting Clerk, Supreme Court, Philippine Islands.*

Thereafter, and on the twenty-third of October, nineteen hundred and seven, the case was duly remanded to the Court of First Instance, for the execution of the judgment of the Supreme Court.

Thereafter, and on the second of June, nineteen hundred and eight, attorneys for plaintiffs presented the following prayer of appeal from the judgment and decree of the Supreme Court of the Philippine Islands to the Supreme Court of the United States, for the reasons specified in the assignment of errors filed therewith:

316 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

The above named plaintiffs, conceiving themselves aggrieved by the judgment made and entered on the 12 day of October nineteen hundred and seven, in the above entitled case, do hereby appeal from the said judgment and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors which is filed herewith, and pray that this appeal may be allowed and that a transcript of the record, proceedings, and papers upon which said judgment and decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

(Signed) HARTIGAN & ROHDE,
Attorneys for Plaintiffs.

Dated this 29 day of May, A. D. 1908.

The foregoing claim of appeal is allowed.
(Signed) FLORENTINO TORRES,
Associate Justice.

Dated this 2nd day of June, A. D. 1908.

317 UNITED STATES OF AMERICA.
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellees,
versus
FRANCISCO ENRIQUEZ et al., Defendants and Appellants.

The plaintiffs pray an appeal from the final decree of this Court to the Supreme Court of the United States, and assign for error:

I.

That the Court erred in reversing the judgment of the Court of First Instance.

II.

The Court erred in holding that a marriage ceremony having been duly celebrated between Antonio Enriquez and Ciriaca Villanueva in 1865, it was necessary, in order to show that they were legally married before that time, to prove that the same kind of a marriage ceremony had theretofore been celebrated.

III.

That the Court erred in holding that the marriage between Antonio Enriquez and Ciriaca Villanueva, celebrated — 1865, needed further explanation than that given by the Court of First Instance, in order that it might be considered proved that the said parties were legally married before said date.

IV.

That the Court erred in holding that during the entire
318 period of the Spanish domination in the Philippine Islands no valid marriages could exist unless some ecclesiastical or civil functionary intervened in its celebration, and that the intervention of civil functionaries was limited to the short time elapsing between the eighth day of December, 1889, when the Civil Code took effect, and the 29th day of the same month, when the provision of Title IV, Book I, of that Code was suspended.

V.

The Court erred in rendering judgment acquitting defendants of plaintiffs' complaint.

The plaintiffs pray that the decree of the Supreme Court of the Philippine Islands be reversed.

Manila, May 29, 1908.

(Signed) HARTIGAN & ROHDE.
Attorneys for Plaintiffs.

319 UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellees,
versus
FRANCISCO ENRIQUEZ et al., Defendants and Appellants.

PHILIPPINE ISLANDS,
City of Manila, ss:

Rafael Enriquez, being first duly sworn on oath, deposes and says, that he is one of the plaintiffs and appellees in the above entitled action, and that the real property the title to and possession of which is involved therein exceeds in value the sum of Twenty-five thousand dollars, gold coin of the United States.

(Signed) RAFAEL ENRIQUEZ.

Subscribed and sworn to before me this 25th day of May, 1908, deponent exhibiting to me his Cedula numbered F1,424,585 and dated Manila April 14th, 1908.

(Signed) ROMAN J. LACSON,
[NOTARY'S SEAL.] *Notary Public.*

My commission expires December 31st, 1908.

320 Know all men by these presents, That we, Rafael Enriquez as principal, and C. Antonio Enriquez and Trinidad Enriquez, as sureties, are held and firmly bound to Francisco Enriquez and Carmen de la Cavada de Enriquez his wife in the full sum of one thousand pesos to be paid to the said Francisco Enriquez et al. or their assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally by the- presents.

Sealed with our seals this 2 day of June, in the year of our Lord one thousand nine hundred and eight.

Whereas lately in the Supreme Court of the Philippine Islands, in a suit depending in said court between Rafael Enriquez, et al., plaintiffs, and *the* Francisco enriquez et al., defendants, a decree was rendered against the said plaintiffs, and the said plaintiffs having obtained an appeal and filed a copy thereof in the Clerk's Office of the said Court to reverse the decree in the aforesaid suit and a citation directed to the said Francisco Enriquez et al. citing and admonishing the same to be and appear at a session of the Supreme Court of the United States to be holden at the city of Washington on the 30 day of September, 1908;

Now the condition of the above obligation is such that if the said plaintiffs shall prosecute their appeal and answer all damages and

costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

(Signed) RAFAEL ENRIQUEZ.
" ANTO. ENRIQUEZ.
" TRINIDAD ENRIQUEZ.
" JAVIER LOPEZ DE ARBIZU,
Husband of Trinidad Enriquez.

Signed, sealed and delivered in the presence of:
WM. J. ROHDE.

Approved:
F. TORRES,
Associate Justice Sup. Crt.

321 UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States to Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the City of Washington within one hundred and twenty days from the date of this writ, pursuant to an appeal duly allowed by the Supreme Court of the Philippine Islands and filed in the Clerk's office of the said Court on the 2 day of June, 1908, in a cause wherein Rafael Enriquez et al. are appellees and you are appellants, to show cause, if any, why the decree rendered against the said appellees as in the said appeal mentioned should not be corrected and why speedy justice should not be done to the partice in that behalf.

Witness the Honorable Florentino Torres, Associate Justice of the Philippine Islands, this 2 day of June, 1908.

(Signed) FLORENTINO TORRES,
Associate Justice of the Supreme Court of the Philippine Islands.

Service of a copy of the within citation is admitted this 3 day of June 1908.

W. A. KINCAID,
Attorney for Appellees.

322 Thereafter, to-wit, on the sixteenth of September, nineteen hundred and eight, attorneys for appellants presented the following petition to the Justice of the Supreme Court of the Philippine Islands who allowed the appeal in this cause, for an enlargement of the time for docketing the said cause in the Supreme Court of the United States:

THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

No. 3474.

RAFAEL ENRIQUEZ et al., Appellants,
vs.
FRANCISCO ENRIQUEZ et al., Appellees.

Now come the appellants in the above entitled cause and through their undersigned attorneys respectfully represent that because of the voluminous record it is impossible to have a translation and transcript made so as to have the same at Washington, D. C., within the time allowed in the order granting this appeal;

Wherefore, they pray that an enlargement of the time specified in said order be granted so that the same shall not expire before sixty (60) days after the thirtieth day of September, A. D. 1908.

(Signed) HARTIGAN & ROHDE,
Attorneys for Appellants.

Manila, September 16, 1908.

323 On the same day the following order was made:

THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

#3474.

RAFAEL ENRIQUEZ et al., Appellants,
vs.
FRANCISCO ENRIQUEZ et al., Appellees.

Upon petition of counsel for appellants, and for the reason therein set forth, the time for the filing of the transcript of record in this cause with the Clerk of the Supreme Court of the United States at Washington, D. C. is hereby enlarged so as not to expire before sixty days from the thirtieth day of September, A. D. 1908.

Manila, P. I., September 16, 1908.

(Sgd.) FLORENTINO TORRES,
Associate Justice of the Supreme Court of the Philippine Islands, Who Allowed the Appeal.

324 THE UNITED STATES OF AMERICA:

Supreme Court of the Philippine Islands.

I, J. E. Blanco, Clerk of the Supreme Court of the Philippine Islands, do hereby certify that the foregoing 323 typewritten pages constitute a true and correct translation of the record and proceedings in Case No. 3474 of this Court, entitled "Rafael Enriquez, in his own right and as Administrator of the Estate of Antonio Enriquez y Sequera, deceased, et al., plaintiffs and appellants, versus Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, defendants and appellees.

In witness whereof, I have hereunto set my hand and affixed the seal of the Supreme Court of the Philippine Islands, at Manila, this fourteenth day of October, nineteen hundred and eight.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,
Clerk of the Supreme Court of the Philippine Islands.

325 Office of the Clerk Supreme Court, P. I. Received Jun- 2, 1908.

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

The above named plaintiffs, conceiving themselves aggrieved by the judgment made and entered on the 12 day of October nineteen hundred and seven, in the above entitled case, do hereby appeal from the said judgment and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors which is filed herewith, and pray that this appeal may be allowed and that a transcript of the record, proceedings, and papers upon which said judgment and decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

HARTIGAN & HOHDE,
Attorneys for Plaintiffs.

Dated this 29 day of May A. D. 1908.

The foregoing claim of appeal is allowed.

FLORENTINO TORRES,
Associate Justice.

Dated this 2nd day of June A. D. 1908.

326 Supreme Court of the Philippines, Clerk's Office. Received Jun- 3, 1908, 2.40 p. m.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States to Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the City of Washington within one hundred and twenty days from the date of this writ, pursuant to an appeal duly allowed by the Supreme Court of the Philippine Islands and filed in the Clerk's office of the said Court on the 2 day of June 1908, in a cause wherein Rafael Enriquez et al., are appellees and you are appellants, to show cause, if any, why the decree rendered against the said appellees as in the said appeal mentioned should not be corrected and why speedy justice should not be done to the partice in that behalf.

Witness the Honorable Florentino Torres, Associate Justice of the Philippine Islands, this 2 day of June 1908.

FLORENTINO TORRES,
Associate Justice of the Supreme Court of the Philippine Islands.

Service of a copy of the within citation is admitted this 3 day of Jun- 1908.

W. A. KINCAID,
J. B.,
Attorney for Appellees.

Endorsed on cover: File No. 21,572. Philippine Islands Supreme Court. Term No. 182. Rafael Enriquez et al., appellants, vs. Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife. Filed March 29, 1909. File No. 21,572.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1911.

No. 24.

RAFAEL ENRIQUEZ ET AL., APPELLANTS,

vs.

FRANCISCO ENRIQUEZ AND CARMEN DE LA CAVADA DE ENRIQUEZ, HIS WIFE.

BRIEF FOR APPELLANTS.

Statement of Facts.

The complaint in this suit was filed June 2, 1902, by the plaintiff Rafael, in his own right and as administrator of the estate of Antonio Enriquez, and by Antonio, Trinidad, Cayetano, Rosaria, and Gertrudis Enriquez and Antonio Gascon against Francisco Enriquez and his wife for the purpose of recovering a certain piece of property in Manila, situate on Calle David, District of Binondo.

The amended complaint (Record, p. 16) shows that on March 27, 1883, Antonio Enriquez, the father of all of the plaintiffs, except one, of whom he was grandfather, and the father of the defendant Francisco, was suffering from such mental and physical infirmity as rendered him incapable of conducting and managing his ordinary affairs; that on March 27, 1883, Antonio Enriquez executed a deed of sale in favor of the defendant Carmen, transferring to her, for the sum of 8,000 pesos, the whole of the property described, but that the instrument was fictitious, fraudulent, and void; that upon the death of the grantor, on July 31, 1884, the defendant Francisco became executor and administrator, and so continued until the latter part of 1900; that at the date of the deed and long prior thereto Antonio Enriquez, deceased, was the exclusive owner of an undivided one-half of the property, and the plaintiffs together with the defendants were in the present hour the exclusive owners of the other one-half; that at the dates mentioned the property in question had the value of 20,000 pesos and at present has the value of 40,000 pesos, and that the defendants paid nothing whatsoever for the property; that on April 1, 1883, Antonio Enriquez left the Philippine Islands for Europe, remaining there until his death; that at present and during all of the time mentioned the defendant Carmen de Cavada was the wife of the defendant Francisco; that Antonio Enriquez died about the month of July, 1884, bequeathing his property to his children, share and share alike; that the defendant Francisco is the oldest surviving son; that the plaintiffs and the defendant Francisco are the only surviving children and legitimate heirs of Antonio Enriquez, except Carmen Enriquez, who is absent in Spain, and the plaintiff Antonio Gascon, who is the only surviving son of Concepcion Enriquez, one of the daughters who survived Antonio, deceased, and who is now dead.

That ever since March 27, 1883, the defendants have collected all of the rents and earnings from the property and appropriated the same to their own use; that such rents

from 1883 to 1890 amounted to 100 pesos a month; from 1890 to 1897, to 150 pesos a month, and from 1897 to date, 250 pesos a month.

The plaintiffs pray that judgment may be rendered setting aside the instrument of sale, declaring that one undivided one-half belongs to the estate of Antonio Enriquez; that the other undivided one-half belongs to the plaintiffs together with the defendants and Carmen Enriquez, share and share alike; that the defendants and each of them have no interests to the exclusion of the plaintiffs in the property; that the plaintiffs recover from the defendants the proportion in value of the rents and earnings of the said property at the rates above given, and for general relief.

After the taking of a large amount of testimony the Court of First Instance (Record, p. 158, etc.) found that the property in question was community property of Antonio Enriquez and his wife, who predeceased him; that Antonio had no power to dispose of more than one-half of the property, and that the plaintiffs were entitled to recover an undivided one-half, together with the value of its use, which was found to be 13,250 pesos, against which should be offset the cost of administering the whole of said property, including repairs and improvements. Judgment was, therefore, entered for the undivided one-half of the said real estate plus the amount stated for its use.

From this judgment of the Court of First Instance an appeal was taken to the Supreme Court of the Philippine Islands and the judgment below was reversed (Record, p. 170). From this judgment of reversal a writ of error was taken to this court. The ground of the decision of the Supreme Court of the Philippine Islands was that it appeared in the evidence that there had been no marriage ceremony celebrated between Antonio Enriquez and his wife until after the birth of a number of children and after the acquisition of the property in question by Antonio Enriquez, it appearing that the property was acquired by Antonio in 1861, and

it being contended that the marriage ceremony was not performed until 1865, and that, therefore, there was no community of goods between Antonio and his wife.

From this decision a writ of error was allowed to the Supreme Court of the United States.

Assignment of Errors.

The appellants say that the Supreme Court of the Philippine Islands erred—

1. In reversing the judgment of the Court of First Instance.

2. In holding that, a marriage ceremony having been duly celebrated between Antonio Enriquez and Ciriaca Villanueva in 1865 (as it was said), it was necessary in order to show that they were legally married before that time to prove that some kind of a marriage ceremony had been celebrated.

3. In holding that the marriage alleged to have been celebrated in 1865 needed further explanation than that given by the Court of First Instance in order that it might be considered proved that the said parties were legally married before said date.

4. In holding that during the entire period of the Spanish domination in the Philippine Islands no valid marriages could exist unless some ecclesiastical or civil functionary intervened in their celebration, and that the intervention of civil functionaries was limited to the short time elapsing between the 8th day of December, 1889, when the Civil Code took effect, and the 29th day of the same month, when the provision of Title 4, Book I, of that code was suspended.

5. In treating the sale to Carmen Enriquez as valid, it not appearing that she paid anything whatsoever for the

property conveyed to her, and the conveyance not being a gift.

6. In rendering judgment acquitting defendants of plaintiffs' complaint.

ARGUMENT.

It will be noted that had the Supreme Court of the Philippine Islands not considered that the only marriage ceremony performed was in the year 1865 its judgment would undoubtedly have been in favor of the plaintiffs. It is necessary, therefore, to carefully examine everything in the record bearing upon this proposition. We may say in advance that we believe such examination will show that there was a gross error committed by the Supreme Court, and that, save for some details not affecting the validity of our argument, the findings and conclusions of the trial court were correct.

A careful examination of the record will not bear out the statement as made that the marriage occurred on June 9, 1865, and not at an earlier date. In making this examination we must look through the manifest errors in dates in the record in order to reach a conclusion approximately correct. In three places in the record are to be found, as referring to the marriage, copies of the record or drafts contained in the ecclesiastical records of the District of Quiapo, and giving dates. On page 108 is the first, from which it appears that according to the register of marriages of the District of Quiapo there is an entry, the particulars material to our argument reading as follows:

> "On the 9th of June, eighteen hundred and sixty-five, I the undersigned, parish priest of this District of Quiapo, dispensing with the reading of the bans provided for by the Holy Council of Trent, and there being to my knowledge no impediment thereto, joined in marriage on the eighteenth day of September, *in facie ecclecie,*" etc.

This is certified to be a true copy of the original, and is given under the certificate date of September 30, 1868.

On page 155 appears another copy, reading as follows:

> "On the ninth day of June, eighteen hundred and sixty-five, I, the undersigned, parish priest of this District of Quiapo, hereby certify that the reading of the three bans prescribed by the Holy Council of Trent having been dispensed with, and there being to my knowledge no impediment thereto, I joined in marriage on the eighteenth day of September, *in facie ecclecie,*" etc.

On page 157 of the record occurs the rough draft upon which the entry appears to have been based, and this reads as follows:

> "On this ninth day of June, eighteen hundred and seventy-five, I, the undersigned, parish priest of the District of Quiapo, do hereby certify that, the reading of the bans provided for by the Holy Council of Trent having been dispensed with, and there being to my knowledge no impediment thereto, I join in marriage on the eighteenth day of September, *in facie ecclecie,*" etc.

It is manifest that the year 1875 given in this last certificate is an error, although this error is repeated in an order of the Vicar General, dated February 6, 1878, occurring on page 157 of the record. We say this because the date 1865 occurs twice before, and the original was certified to on September 30, 1868, on page 108 of the record and page 155.

Upon the above evidence, it is found by the court that the marriage took place on June 9, 1865. This appears to us to be in the teeth of the evidence. The date, June 9, 1865, only occurs as the one upon which the priest undertook to give the certificate. The date of the marriage manifestly was as above appears, September 18 of some year prior to 1865, as it naturally could not have been in that year. The

language of the rough draft shows in express language that the priest designed to certify on June 9, 1865, that there had been a marriage in the church on a prior date. Its language bears this out, the certificate in substance reading as follows:

> "On this 9th day of June, 1865, I, parish priest of the District of Quiapo, do hereby certify that I joined in marriage on the 18th day of September."

There is other intrinsic evidence indicating a marriage between the parties which must have been at some time between 1854 and 1858. The petition to the Vicar General, signed by Antonio Enriquez (Record, p. 155), refers to the birth of a child by his wife before the marriage, and who was baptized October 8, 1854. No other child appears to have been born before such marriage, but, on the contrary, when we examine the record we find that on September 8, 1858 (p. 106), Maria del Carmen Maxima Enriquez, a girl seven days old, "the legitimate daughter in lawful wedlock begotten of Antonio Enriquez and Ciriaca Solis, Spaniards," was duly baptized in the parish church of San Miguel. We also find on page 107 of the record certificate of birth of Cayetano Saturino Enriquez, "the legitimate son in lawful wedlock begotton of Antonio Enriquez and Ciriaca Solis, Spaniards." It is true that in this certificate as it appears in the record there are two errors. In the first place, the date of baptism is fixed as of December 11, 1858, but three months after the date of baptism of Maria, just referred to. The true date should have been in 1859, as will appear from the record, page 172, which recites the canonical books as showing that Carmen and Cayetano were baptized respectively in 1858 and 1859. A further error occurs in that Cayetano is spoken of as a child of twelve *years*, when twelve *days* was undoubtedly meant, and would more nearly accord with the practices of the people. Besides all this the petition above referred to of Antonio mentions but a single child as having been born before the marriage, whereas were Cayetano in 1858 twelve years of age instead of twelve

days, there would have been at least two children so born, and his year of birth would have been carried back to 1846 or 1847, leaving the latest child to be born in 1875, almost thirty years afterward, a condition of affairs not at all probable.

We have, therefore, this situation: In 1858 and 1859 the parish priests of San Miguel were recording the births in lawful wedlock of children of Antonio Enriquez. That these priests would have consciously made false records is not to be believed; and that Antonio Enriquez, a man of prominence and later treasurer of finances of the Islands, brother of the Governor, would himself have tolerated their existence can scarcely be presumed. It must, therefore, have been the case that the children born later than 1854 were the legitimate children of Antonio Enriquez and his wife.

But it is said by the decision of the Supreme Court of the Islands that a marriage ceremony was "duly performed between these persons in 1865" (Record, p. 170). It further holds that "a marriage ceremony having been duly celebrated between these persons in 1865," it is necessary, in order to show that they were legally married before that time, "to prove that the same kind of a marriage ceremony had theretofore been celebrated. * * * During the entire period of that (Spanish) domination, no valid marriage could exist unless some ecclesiastical or civil functionary intervened in its celebration, and the intervention of civil functionaries was limited to the short time elapsing between the eighth day of December, 1889, when the Civil Code took effect here, and the 29th day of the same month, when the provisions of Title 4, Book 1, of that code were suspended."

The Supreme Court of the United States, upon a most careful examination of the marriage law prevailing among the Spanish possessions, reached a very different conclusion in the case of Hallett *et al. vs.* Collins, 10 Howard, 174. In this case the determination of the question was con-

trolled by the Spanish law prevailing in 1805 in Louisiana, and the court says:

> "That marriage might be validly contracted by mutual promises alone, or what were called *sponsalia de presenti,* without the presence or benediction of a priest, was an established principle of civil and canon law antecedent to the Council of Trent. * * * In Spain (the decree of the Council of Trent) was received and promulgated by Philip II in his European dominions. But the laws applicable to the colonies consisted of a code, issued by the Council of the Indies antecedent to the Council of Trent, and are to be found in the code or treatise called Las Siete Partidas and the laws of Toro. The law of marriage as contained in the Partidas is the same as that which we have stated to be the general law of Europe antecedent to the council, namely, 'that consent alone, joined with the will to marry, constitutes marriage.' We have no evidence, historical or traditional, that any portion of this code was ever authoritatively changed in any of the American colonies; nor has it been shown that in the 'Recopalación de los Indios' digested for the government of the colonies by the order of Philip IV., and published in 1661, nearly a century after the Council of Trent, any change was made in the doctrine of the Partidas on the subject of marriage, in order to accommodate it to that of the council. It may be supposed that, as a matter of conscience and subjection to ecclesiastical superiors, a Catholic population would in general conform to the usages of the church. But such conformity would be no evidence of the change of the law by the civil power."

In confirmance of this view, reference is made to the case of Patton *vs.* Philadelphia, 1 La. An. Reps., 98, and Phillips vs. Gregg, 10 Watts, 158.

It would seem, therefore, that when the Supreme Court of the Philippines made its declaration as to the laws governing the Islands and concerning marriage it did so with-

out careful study and entirely ignoring the labors and conclusions of this court. In fact, by reference to the record in Sy Joe Jieng *et al. vs.* Sy Quia, No. 796, October term, 1910, now pending in this court, in the dissenting opinion of Judge Johnson (pp. 708, 709) we find a discussion indicating no change in the law of the Philippines until 1889 from that declared by the Supreme Court of the United States, and the opinion of the majority discloses nothing contrary.

We have so far treated this case as if there had been a *bona fide* transfer by Antonio Enriquez to Carmen Enriquez, wife of Francisco Enriquez, for which he had paid an agreed consideration. We think the record demonstrates clearly the fact that advantage was taken of a man in his last illness, and that in point of fact no money whatsoever ever passed or could have passed from Carmen Enriquez to her father-in-law.

The sale price of the property was eight thousand pesos, five thousand of which was represented by a mortgage and three thousand alleged to have been paid in cash. It is the testimony of Francisco Enriquez that his father had wanted to sell this property to Carmen before his illness, and that the deed, signed but two or three days before his departure for Europe, was merely the consummation of this original intention. Antonio Enriquez was taken ill with a paralytic stroke in October, 1882, he, at that time, living in his house in the Calle David. Two months later he was removed to thē Escolta, where he remained until his departure for Europe, April 1, 1883. During all of this time the preponderance of the evidence shows that he was incapable of making himself understood; that he could only babble; that he was being constantly cared for by his children and his servants; that he was only able to walk at all by having two persons support him; that he was carried to the carriage which conveyed him to the Escolta, and that he was carried to the ship and remained in his stateroom throughout the voyage to Spain. There are but one or two business acts,

aside from the execution of the deed to Mrs. Carmen Enriquez, claimed to have been performed by him between October and April, and their actual performance is at least doubtful. He was unable to sign the deed to Mrs. Carmen, and the whole history of his symptoms shows that during the entire period his mind was passive or failing. Even the deed itself affords ground for suspicion. While it bears the date of March 27, 1883, at which time Antonio Enriquez resided at the Escolta, nevertheless (page 4) it is recited as having been executed in Calle David.

With this condition of affairs existing as to the grantor, Carmen Enriquez, the grantee, claims to have paid the above-mentioned sum of three thousand pesos to Señor Antonio. At the date of her testimony in this case (May, 1902) she was thirty-nine years old. In 1883, therefore, when this transaction is said to have been consummated, she was but twenty years of age and had been married about a year, apparently married in the spring of 1882, as she testifies that she was married some six or eight months before Antonio Enriquez became ill. This girl of nineteen, as she then was, had, according to her own testimony, inherited nothing and been given no money by her husband, but had gained the sum of three thousand pesos in business. On examination she proved herself utterly unable to state the kind of business in which she had been engaged, although questioned quite at length. Her husband supplies the deficiency by testifying in the vaguest manner (page 139) that she had traded in grain, cloth, and jewels. It is difficult for us to conceive that a girl of nineteen, becoming then the wife of a judge of the Court of First Instance in the Philippine Islands, should before and after her marriage, as it is testified to, and by the time she was twenty years of age, have gained the three thousand pesos necessary to complete this transaction. The story is inconsistent with any probabilities. Furthermore, it is to be borne in mind that but one year later, from the same wardrobe, in which she testified that she kept her money, she took out the addi-

tional sum of twenty-five hundred pesos, as she says, to make another purchase from Victoriano Reyes, and if this case is to be tried with No. 26 we call attention to the fact that another year after she paid seven thousand pesos for the purchase of the interest of Jorge Enriquez in the property of his father, Antonio.

We are not allowed to suppose in any of these cases that the purchase was made by the defendant Francisco and the property taken in the name of his wife, their testimony being that the money was paid by the wife alone. We are forced, therefore, to the belief, the reception of the money not having been accounted for in any way by the father, so far as this property is concerned, that no money whatsoever passed, and that deception was practiced by the son and the son's wife upon the father, whose days were numbered.

It is respectfully submitted, therefore, that the judgment of the Supreme Court of the Philippine Islands, based as it is upon erroneous conceptions as to the law and the facts, should be reversed.

JACKSON H. RALSTON,
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WM. E. RICHARDSON,
Appellants' Attorneys.

FILED
OCT 21 1911
JAMES H. McKENNEY,
Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1910

No. 24.

RAFAEL ENRIQUEZ ET AL., APPELLANTS

vs.

FRANCISCO ENRIQUEZ AND CARMEN DE LA CAVADA DE ENRIQUEZ, HIS WIFE, APPELLEES

APPEAL FROM THE SUPREME COURT OF THE PHILIPPINE ISLANDS

BRIEF FOR APPELLEES

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1910.

No 182

RAFAEL ENRIQUEZ ET AL., APPELLANTS,

vs.

FRANCISCO ENRIQUEZ AND CARMEN DE LA CAVADA DE ENRIQUEZ, HIS WIFE, APPELLEES.

APPEAL FROM THE SUPREME COURT OF THE PHILIPPINE ISLANDS

BRIEF FOR APPELLEES

NOTE.—Appellees being unable financially to employ counsel to represent them at Washington, the undersigned one of their counsel in the local courts, has consented reluctantly to prepare and forward this brief at the disadvantage of not having received a copy of the brief of appellants, whose counsel under the rules of the Court may wait until six days before the submission of the case to file his brief.

Statement of the case

This is an action brought by the plaintiffs in the Court of First Instance of Manila to annul and

set aside a deed executed by Don Antonio Enriquez on the 27th of March, 1883, conveying the real estate in question to the defendant Carmen de la Cavada. Judgment was rendered by that Court of First Instance to the effect that the plaintiffs were the owners of an undivided half interest in said real property and decreeing that the defendant Carmen de la Cavada should pay to the plaintiffs ₱13,250.00 equivalent to $6,625.00, U. S. Currency, on account of the rents and profits of such undivided half interest. (Printed record, pp. 162-163.)

The defendants (appellees herein) duly appealed to the Supreme Court of the Philippines.

The plaintiffs (appellants herein) excepted to a specified part of the judgment of the Court of First Instance (p. 164, printed record), but made no formal motion for a new trial in the Court of First Instance nor assignments of error in the Supreme Court of the Philippines based upon the judgment nor anything else to perfect an appeal.

The Supreme Court of the Philippine Islands reversed the judgment of the trial court and entered judgment in favor of the defendants (appellees herein).

This Court is without jurisdiction

The amount in controversy is less than $25,000.00, U. S. Currency, and this Court is therefore without jurisdiction.

Paragraph 7 of the original complaint (p. 2, printed record) and paragraph 7 of the amended complaint (p. 17, printed record) are substantially the same and allege the value of the real-estate in question to be "forty thousand pesos more or less" equivalent to twenty thousand dollars, U. S. Currency. The total amount of the rents according to the amended complaint is shown on calculation to be about ₱45,000.00, but the Court of First Instance rendered judgment in favor of the plaintiffs on account of rents for only ₱13,250.00 ($6,625.00) and that only against the defendant Carmen de la Cavada.

The plaintiffs for the purpose of securing the allowance of their appeal filed an affidavit declaring as follows:

> "Rafael Enriquez, being first duly sworn on oath, deposes and says, that he is one of the plaintiffs and appellees in the above entitled action, and that the real property the title to and possession of which is involved therein exceeds in value the sum of Twenty-five thousand dollars, gold coin of the United States.
>
> (Signed) RAFAEL ENRIQUEZ."
>
> (Page 175, printed record.)

It is immaterial in this case whether the value of the real-estate as alleged in the complaint or that

alleged in the affidavit be accepted because in neither event would the jurisdictional amount be reached. But as a matter of law settled by this Court, the value stated in the complaint must prevail and the affidavit is not admissible to enhance it.

Richmond v. Milwaukee, 21 How 391; 16 L. ed. 72.

Red River Cattle Co. v. Needham, 137 U. S. 632.

First Nat. Bank v. Hughes, 106 U. S. 523.

Whether the value of the real-estate stated in the complaint or that in the affidavit be accepted, the amount in controversy so far as concerns the defendant Francisco Enriquez is but one-half that value and so far as concerns the defendant Carmen de la Cavada one-half that value plus $6,625.00 the amount of the judgment for rents against her.

It cannot be seriously contended that the amount in controversy in this appeal exceeds that in controversy before the Supreme Court of the Philippines or that the amount in controversy in the latter Court exceeded the amount of the judgment against the defendants in the Court of First Instance when only the defendants appealed therefrom.

See:—

Troy v. Evans, 97 U. S. 1.
Gordon v. Ogden, 3 Pet. 33; 7 L. ed. 592.

Smith v. Honey, 3 Pet. 469; 7 L. ed. 744.

Pacific Export Co. v. Malin, 131 U. S. 394.

Corke v. Woodrow, 5 Cranch 13, 3 L. ed. 22.

The judgment of the Court of First Instance was for the restitution of an undivided one-half interest in the real-estate as against the defendants Francisco Enriquez and Carmen de la Cavada and for the payment of $6,625.00 as against the latter alone.

Sec. 10 of the Act of Congress of July 1st, 1902, provides:—

> "That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which the value in controversy exceeds twenty-five thousand dollars, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand dollars, to be ascertained by the oath of either party or of other

> competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgments and decrees of the Circuit Courts of the United States."

While it is unnecessary in this case to determine whether the alleged rental value of the property can under the foregoing provision be added to the alleged value of the real estate in question for the purpose of determining the amount in controversy, it would seem that it cannot for two reasons: first, because the language of the clause "or in which the title or possession of real-estate exceeding in value the sum of $25,000.00" clearly requires the real-estate in controversy to be of that value independently of any other value in controversy. It is also evident that the preceding language "value in controversy" was not intended to include real-estate in controversy otherwise the special clause as to real-estate becomes superfluous. Second, the alleged rental value is a mere incident to the real-estate which must follow the decision as to its title and as to this Court's jurisdiction to pass upon the same.

The only question presented by the appeal on the merits is whether the grantor in the deed sought to be annulled was the husband of Ciriaca Villanueva on July 1st, 1861, the date of the acquisition of the property (see amended answer, p. 17 printed record). Plaintiffs' contention is that they were man and wife on that date, that the property was therefore conjugal property and that consequently the conveyance made after the death of the wife, carried title only to an undivided one-half interest.

Plaintiffs offered in evidence a certificate of the canonical marriage of the said grantor Antonio Enriquez y Sequera and Ciriaca Villanueva showing that their marriage took place on June 9th, 1865, four years after the acquisition of the property in question. (p. 108, printed record.)

The judgment of the Supreme Court of the Philippines sufficiently disposes of the contention of the appellants on this point.

We respectfully ask that the appeal be dismissed for want of jurisdiction and, if not, that the judgment appealed from be affirmed on the merits.

Respectfully submitted.

ALLISON D. GIBBS,
For the Appellees.